



भारत का राजपत्र

The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 23] नई दिल्ली, जून 4—जून 10, 2006, शनिवार/ज्येष्ठ 14—ज्येष्ठ 20, 1928

No. 23] NEW DELHI, JUNE 4—JUNE 10, 2006, SATURDAY/JYAISTHA 14—JYAISTHA 20, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग-II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(राजस्व विभाग)
केन्द्रीय उत्पाद शुल्क आयुक्त का कार्यालय
कोलकाता, 25 मई, 2006
सं.-03/2006-सी.शु. (एन.टी.)

का.आ. 2192.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली के सीमा शुल्क अधिनियम, 1962 की धारा 152 के अन्तर्गत जारी अधिसूचना संख्या 33/1994 सी.शु. (एन.टी.) दिनांक 1 जुलाई, 1994, प्रदत्त शक्तियों का प्रयोग करते हुए सीमा शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 के अधीन तथा एम. एफ.डी.आर. के परिपत्र सं. 31/2003 सीमा शुल्क दिनांक 7 अप्रैल, 2003 के अन्तर्गत मैसर्स सेनोस्फीयर इन्डिया प्राइवेट लिमिटेड, ग्राम हरिनारायण चौक जे.एल. नं. 55, पो. पीरपुर बब्बे रोड, उलुबेरिया, हावड़ा-711316, पश्चिम बंगाल के सीमा शुल्क अधिनियम, 1962 (1962 का 52) की उप-धारा 9 के तहत विकास आयुक्त, फाल्टा, विशेष आर्थिक जोन, वाणिज्य मंत्रालय, भारत सरकार द्वारा अनुमोदित

100% निर्यात ओरियेटेड यूनिट की स्थापना के उद्देश्य से वेयर हाउसिंग स्टेशन घोषित किया जाता है।

[सी. सं. IV(16) 2/सी.ई/तक./हल्दिया/2006]
कमल ज्योति, आयुक्त

MINISTRY OF FINANCE
(Department of Revenue)
OFFICE OF THE COMMISSIONER OF
CENTRAL EXCISE
Kolkata, the 25th May, 2006
No. 03/2006-Customs (N.T.)

S. O. 2192.—In exercise of the powers conferred under Section 9 of the Customs Act, 1962 as delegated by Notification No. 33/1994-Customs (NT) dated 1st July, 1994 issued under Section 152 of the Customs Act, 1962 (52 of 1962) read with MFDR Circular No. 31/2003-Customs dated 7th April, 2003, the factory premises of M/s Cenosphere India Private Limited at Vill. Hari Narayan Chowk, JL No. 55, P.O. Piplpur, Bombay Road, Uluberia, Howrah-711316 in

the State of West Bengal are, hereby, declared to be a Warehousing Station under Section 9 of the Customs Act, 1962 (52 of 1962) for the purpose of setting up of a 100% Export Oriented Unit as approved by the Development Commissioner, Falta Special Economic Zone, Ministry of Commerce, Government of India.

[C. No. IV (16) 2/CE/Tech/Haldia/2006]

KAMAL JYOTI, Commissioner

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 29 मई, 2006

का. आ. 2193.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 की धारा 7 की उप-धारा (2) के साथ पठित धारा 6 की उप-धारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से एतद्वारा निम्नलिखित को उनकी नियुक्ति की अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए और अगले आदेशों तक, जो भी पहले हो, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के बोर्ड में गैर-सरकारी निदेशक के रूप में नामित करती है :

1. डॉ. राम एस. तरनेजा, .

पूर्व अध्यक्ष यूएनआई एवं पूर्व प्रबंध निदेशक,
बैंक बोर्ड कोलमन एंड कंपनी लिमिटेड

2. डॉ. अनुप कुमार सिन्हा,

प्रोफेसर, अर्थशास्त्र,
आईआईएम कोलकाता

[फा. सं. 7/4/2004-बीओ-1]

जी. बी. सिंह, अवर सचिव

(Department of Economic Affairs)

(BANKING DIVISION)

New Delhi, the 29th May, 2006

S.O. 2193.—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 6 read with Sub-section (2) of Section 7 of the National Bank for Agriculture and Rural Development Act, 1981, the Central Government, in consultation with Reserve Bank of India, hereby nominates the following persons as non-official directors on the Board of Directors of National Bank for Agriculture and Rural Development (NABARD) for a period of three years, from the date of notification of their appointment and/or until further orders whichever is earlier :

1. Dr. Ram S. Tarneja,
Former Chairman UNI and Former MD,
Bennett Coleman and Company Ltd.

2. Dr. Anup Kumar Sinha,
Professor of Economics,
IIM Kolkata

[F. No. 7/4/2004-BO-1]

G. B. SINGH, Under Secy.

शुद्धि-पत्र

नई दिल्ली, 1 जून, 2006

का. आ. 2194.—भारत के असाधारण राजपत्र के भाग II, खण्ड 3, उप-खण्ड (ii) में प्रकाशित, दिनांक 31 मार्च, 2006 को वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) की संख्या का. आ. 469(अ) में भारत सरकार की अधिसूचना में, पृष्ठ 8 की पंक्ति 16 और 17 में “पश्चिमी उत्तर प्रदेश ग्रामीण बैंक” शब्दों को “बड़ौदा पश्चिमी उत्तर प्रदेश ग्रामीण बैंक” पढ़ा जाए ।

[फा. सं. 1/4/2006-आरआरबी-(IV)]

एम. के. मल्होत्रा, अवर सचिव

CORRIGENDUM

New Delhi, the 1st June, 2006

S.O. 2194.—In the Notification of the Government of India in the Ministry of Finance, Department of Economic Affairs (Banking Division) Number S.O. 469(E) dated the 31st March, 2006 published in the Extraordinary Gazette of India Part II, Section 3, Sub-section (ii) dated the 31st March, 2006, on page 8 line 16 and 17 the words “Paschimi Uttar Pradesh Gramin Bank” may be read as “Baroda Paschimi Uttar Pradesh Gramin Bank”.

[F. No. 1/4/2006-RRB-(IV)]

M. K. MALHOTRA, Under Secy.

पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय

(पोत परिवहन विभाग)

नई दिल्ली, 30 मई, 2006

का. आ. 2195.—केन्द्रीय दीपसंभ-सलाहकार-समिति (प्रक्रियात्मक) नियमावली, 1976 के साथ पठित दीपसंभ अधिनियम, 1927 (वर्ष 1927 के अधिनियम सं. 17) की धारा 4 की उप-धारा (1) के अनुसरण में, केन्द्रीय सरकार, इस मंत्रालय की दिनांक 16 मई, 2005 की अधिसूचना सं. एल-एच-11016/1/2005-एसएल में, एतद्वारा, निम्नलिखित संशोधन करती है ।

दिनांक 16 मई, 2005 की उपर्युक्त राजपत्रित अधिसूचना में, केन्द्रीय दीपसंभ-सलाहकार-समिति में नियुक्ति के बारे में, क्रम सं. 6 पर विद्यमान प्रविष्टि को निम्नलिखित प्रविष्टि से प्रतिस्थापित किया जाए, अर्थात् :-

“6. श्री जेसूदासू सीलम,
संसद-सदस्य (राज्य-सभा)”

[फा. सं. एल एच-11016/1/2005-एस एल]

वी. पी. राणा, अवर सचिव

MINISTRY OF SHIPPING, ROAD TRANSPORT AND HIGHWAYS

(Department of Shipping)

New Delhi, the 30th May, 2006

S.O. 2195.—In pursuance of Sub-section (1) of Section 4 of the Lighthouse Act, 1927 (No. 17 of 1927) read

with Rule 4 of the Central Advisory Committee for Lighthouses (Procedural) Rules, 1976, the Central Government hereby makes the following amendments in this Ministry's Notification No. LH-11016/1/2005-SL dated 16th May, 2005.

In the said Gazette Notification dated 16th May, 2005 regarding appointment made to the Central Advisory Committee for Lighthouses (CACL), for the existing entry at S.No. 6, the following entry shall be substituted, namely:—

“6. Shri Jesudasu Seelam,
Member of Parliament
(Rajya Sabha)”

[F. No. LH-11016/1/2005-SL]

V. P. RANA, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय
(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 23 मई, 2006

का. आ. 2196.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1) के खण्ड (ख) के अनुसरण में पण्डित रविशंकर शुक्ला विश्वविद्यालय, रायपुर (छत्तीसगढ़) की सीनेट द्वारा डॉ. जी. बी. गुप्ता, 'प्रोफेसर आफ मेडीसिन, गवर्नरमेंट मेडिकल कालेज, रायपुर' को इस अधिसूचना के जारी होने की तारीख से भारतीय आयुर्विज्ञान परिषद के एक सदस्य के रूप में निर्वाचित किया गया है।

अतः, अब, उक्त अधिनियम की धारा 3 की उप-धारा (1) के उपबंध के अनुसरण में केन्द्र सरकार एतदद्वारा तत्कालीन स्वास्थ्य मंत्रालय भारत सरकार की अधिसूचना संख्या का.आ. 138 दिनांक 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में “धारा 3 की उप-धारा (1) के खण्ड (ख) के अधीन निर्वाचित” शीर्षक के अंतर्गत क्रम संख्या 34 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टियां प्रतिस्थापित की जाएंगी, अर्थात्:—

“34. डा. जी.बी. गुप्ता पण्डित रविशंकर शुक्ला विश्वविद्यालय”
प्रोफेसर आफ मेडीसिन,
गवर्नरमेंट मेडिकल कालेज,
रायपुर, छत्तीसगढ़

[सं. वी-11013/2/2004-एम.इ.(नीति-1)]
के. वी. एस. राव, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE
(Department of Health and Family Welfare)

New Delhi, the 23rd May, 2006

S.O. 2196.—Whereas In pursuance of clause (b) of Sub-section (1) of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956) Dr. G.B. Gupta, Prof. of Medicine, Govt. Medical College, Raipur, has been elected by the Senate of the Pt. Ravishankar Shukla University, Raipur (Chhattisgarh) to be a member of the Medical Council of India with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of Sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following further amendment in the Notification of the Government of India in the then Ministry of Health Number S.O. 138, dated the 9th January, 1960, namely:—

In the said Notification, under the heading, 'Elected under clause (b) of Sub-section (1) of section 3, for serial number 34 and the entries relating thereto the following entry shall be substituted, namely:—

“34. Dr. G.B. Gupta, Pt. Ravishankar Shukla University
Prof. of Medicine,
Govt. Medical College,
Raipur, Chhattisgarh.”

[No.V-11013/2/2004-ME(Policy-I)]

K. V. S. RAO, Under Secy.

नई दिल्ली, 23 मई, 2006

का. आ. 2197.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1) के खण्ड (ख) के अनुसरण में दिनांक 28-01-2006 को कोर्ट आफ डिब्रूगढ़ यूनीवर्सिटी, असम द्वारा डॉ. डी. हजारिका, प्रिंसीपल, असम मेडिकल कालेज, डिब्रूगढ़ को इस अधिसूचना के जारी होने की तारीख से भारतीय आयुर्विज्ञान परिषद के एक सदस्य के रूप में निर्वाचित किया गया है।

अतः, अब, उक्त अधिनियम की धारा 3 की उप-धारा (1) के उपबंध के अनुसरण में केन्द्र सरकार एतदद्वारा तत्कालीन स्वास्थ्य मंत्रालय भारत सरकार की अधिसूचना संख्या का.आ. 138 दिनांक 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में “धारा 3 की उपधारा (1) के खण्ड (ख) के अधीन निर्वाचित” शीर्षक के अंतर्गत क्रम संख्या 35 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टियां प्रतिस्थापित की जाएंगी, अर्थात्:—

“35. डा. डी. हजारिका, डिब्रूगढ़ विश्वविद्यालय
प्रिंसीपल,
असम मेडिकल कालेज,
डिब्रूगढ़, असम

[सं. वी-11013/2/2004-एम.इ.(नीति-1)]

के. वी. एस. राव, अवर सचिव

New Delhi, the 23rd May, 2006

S.O. 2197.—Whereas In pursuance of clause (b) of Sub-section (1) of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956) Dr. D. Hazarika, Principal, Assam Medical College, Dibrugarh, has been elected by the Court of the Dibrugarh University, Assam on 28-01-2006 to be a member of the Medical Council of India with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of Sub-section (1) of Section 3 of the said Act, the Central

Government hereby makes the following further amendment in the Notification of the Government of India in the then Ministry of Health Number S.O. 138, dated the 9th January, 1960, namely:—

In the said Notification, under the heading, 'Elected under clause (b) of Sub-section (1) of Section 3,' for serial number 35 and the entries relating thereto the following entry shall be substituted, namely:—

"35. Dr. d. Hazarika, Dibrugarh University"
Principal,
Assam Medical College,
Dibrugarh, Assam

[No. V-11013/2/2004-ME (Policy-I)]

K. V. S. RAO, Under Secy.

नई दिल्ली, 23 मई, 2006

का. आ. 2198.—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1) के खण्ड (ख) के अनुसरण में दिनांक 28-01-2006 को कोर्ट आफ दी गोआ यूनिवर्सिटी द्वारा प्रो. (डा.) सिल्वानो सी. ए. डियास सापेको, फोरेंसिक मेडिसन के प्रमुख, गोआ मेडिकल कालेज, बाम्बोलिम को इस अधिसूचना के जारी होने की तारीख से भारतीय आयुर्विज्ञान परिषद के एक सदस्य के रूप में निर्वाचित किया गया है।

अतः, अब, उक्त अधिनियम की धारा 3 की उप-धारा (1) के उपबंध के अनुसरण में केन्द्र सरकार एतद्वारा तत्कालीन स्वास्थ्य मंत्रालय भारत सरकार की अधिसूचना संख्या का.आ. 138 दिनांक 9 जनवरी, 1960 में निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में "धारा 3 की उप-धारा (1) के खण्ड (ख) के अधीन निर्वाचित" शीर्षक के अंतर्गत क्रम संख्या 65 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टियां प्रतिस्थापित की जाएंगी, अर्थात्:—

"65. प्रो. (डा.) सिल्वानो सी.ए. डियास सापेको गोवा विश्वविद्यालय,"
10, गोमेको का.आ. हाउसिंग सोसाइटी,
बाम्बोलिम, गोआ-403002

[सं. वी.-11013/2/2004-एम.इ. (नीति-1)]

के. वी. एस. राव, अवर सचिव

New Delhi, the 23rd May, 2006

S.O. 2198.—Whereas in pursuance of clause (b) of Sub-section (1) of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956) Prof. (Dr.) Silvano C.A. Dias Sapeco, Head of Forensic Medicine, Goa Medical College, Bambolim has been elected by the Court of the Goa University on 3-3-2006 to be a member of the Medical Council of India with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of Sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following further amendment in the Notification of the Government of India in the then

Ministry of Health Number S.O. 138, dated the 9th January, 1960, namely:—

In the said Notification, under the heading, 'Elected under clause (b) of Sub-section (1) of Section 3,' for serial number 65 and the entries relating thereto the following entry shall be substituted, namely:—

"65. Prof. (Dr.) Silvano C.A. Dias Sapeco, Goa University"
10, Gomeco Co-op. Housing Society,
Bambolim, Goa-403 002.

[No. V-11013/2/2004-ME (Policy-I)]

K. V. S. RAO, Under Secy.

(स्वास्थ्य विभाग)

नई दिल्ली, 30 मई, 2006

का. आ. 2199.—केन्द्रीय सरकार दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय दंत चिकित्सा परिषद से परामर्श करके उक्त अधिनियम की अनुसूची के भाग-I में एतद्वारा निम्नलिखित संशोधन करती है; अर्थात्:—

2. दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में डा. एम जी आर मेडिकल यूनिवर्सिटी, तमिलनाडु, चेन्नई से संबंधित क्रम सं. 34 के सामने स्तंभ 2 एवं 3 की मौजूदा प्रविष्टियों में रागाज डेंटल कालेज चेन्नई के संबंध में निम्नलिखित प्रविष्टियां अंतःस्थापित की जाएंगी:—

IV. रागाज डेंटल कालेज चेन्नई एम डी एस(पीरियोडान्टिक्स)
"पीरियोडान्टिक्स" द टी.एन.डा. एम.जी.आर
(यदि 7-02-2005 को अथवा मेडिकल यूनिवर्सिटी, चेन्नई" उसके बाद प्रदान की गई हो)

[सं. वी.-12017/26/2001-पी एम एस]

आस्था एस. खटवानी, निदेशक (एम ई)

(Department of Health)

New Delhi, the 30th May, 2006

S.O. 2199.—In exercise of powers conferred by Sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely:—

2. In the existing entries of column 2 & 3 against Serial No. 34, in Part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to Dr. M.G.R. Medicinal University, Tamil Nadu, Chennai, the following entries in respect of Ragas Dental College, Chennai shall be inserted thereunder:—

IV. Ragas Dental College, Chennai

“Periodontics MDS (Periodontics)
 (When granted on or the T.N. Dr. M.G.R.
 after 7-02-2005) Medical Univ., Chennai.”
 [No. V-12017/26/2001-PMS]

AASTHA S. KHATWANI, Director (ME)

नई दिल्ली, 30 मई, 2006

का. आ. 2200.—केन्द्रीय सरकार दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय दंत चिकित्सा परिषद् से परामर्श करके उक्त अधिनियम की अनुसूची के भाग-I में एतद्वारा निम्नलिखित संशोधन करती है; अर्थात् :

2. दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में राजीव गांधी यूनिवर्सिटी आफ हैल्थ साइंसेज, बंगलौर से संबंधित क्रम सं. 49 के सामने स्तंभ 2 एवं 3 की मौजूदा प्रविष्टियों में वी.एस. डेंटल कालेज एंड हास्पिटल, बंगलौर के संबंध में निम्नलिखित प्रविष्टियां अंतः स्थापित की जाएंगी :—

XXII वी एस डेंटल कालेज एंड हास्पिटल, बंगलौर :

मास्टर आफ डेंटल सर्जरी एम डी एस (कंजर्वेटिव डेंटिस्ट्री)
 (iv) कंजर्वेटिव डेन्टिस्ट्री राजीव गांधी यूनिवर्सिटी आफ
 (यदि 03-05-2005 हैल्थ साइंसेज, बंगलौर
 को अथवा उसके बाद
 प्रदान की गई हो)

[फा. सं. वी-12017/32/97-पी एस/डी ई]

आस्था एस. खटवानी, निदेशक (एम ई)

New Delhi, the 30th May, 2006

S.O. 2200.—In exercise of the powers conferred by Sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 49, in part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to Rajiv Gandhi University of Health Sciences (RGUHS), Bangalore, the following entries in respect of V.S. Dental College, & Hospital, Bangalore shall be interest thereunder :—

XXII. V.S. Dental College & Hospital, Bangalore

Master of Dental Surgery MDS (Conservative
 (iv)-Conservative Dentistry Dentistry) Rajiv Gandhi
 (When granted on or University of Health
 after 03-5-2005) Sciences, Bangalore.

[F. No. V-12017/32/97-PMS/DE]

AASTHA S. KHATWANI, Director (ME)

नई दिल्ली, 30 मई, 2006

का. आ. 2201.—केन्द्रीय सरकार दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय दंत चिकित्सा परिषद् से परामर्श करके उक्त अधिनियम की अनुसूची के भाग-I में एतद्वारा निम्नलिखित संशोधन करती है; अर्थात् :

2. दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की अनुसूची के भाग-I में राजीव गांधी यूनिवर्सिटी आफ हैल्थ साइंसेज, बंगलौर से संबंधित क्रम सं. 49 के सामने स्तंभ 2 एवं 3 की मौजूदा प्रविष्टियों में कालेज आफ डेंटल साइंसेज, दावनगिरी के संबंध में निम्नलिखित प्रविष्टियां अंतःस्थापित की जाएंगी :—

1. कालेज आफ डेंटल साइंसेज, दावनगिरी :

मास्टर आफ डेंटल सर्जरी एम डी एस (काम्युनिटी
 “(vii) काम्युनिटी डेन्टिस्ट्री डेन्टिस्ट्री) राजीव गांधी
 (यदि 04-10-2005 को अथवा यूनिवर्सिटी आफ हैल्थ
 उसके बाद प्रदान की गई हो) साइंसेज, बंगलौर”

[सं. वी-12017/34/2001-पी एस/डी ई]

आस्था एस. खटवानी, निदेशक (एम ई)

New Delhi, the 30th May, 2006

S.O. 2201.—In exercise of the powers conferred by Sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 49, in part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to Rajiv Gandhi University of Health Sciences (RGUHS), Bangalore, the following entries in respect of College of Dental Sciences, Davangere, shall be inserted thereunder :—

1. College of Dental Sciences, Davangere :

Master of Dental Surgery MDS (Community
 “(iv)-Community Dentistry Dentistry) Rajiv Gandhi
 (When granted on or University of Health
 after 04-10-2005) Sciences, Bangalore”

[No. V-12017/34/2001-PMS/DE]

AASTHA S. KHATWANI, Director (ME)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

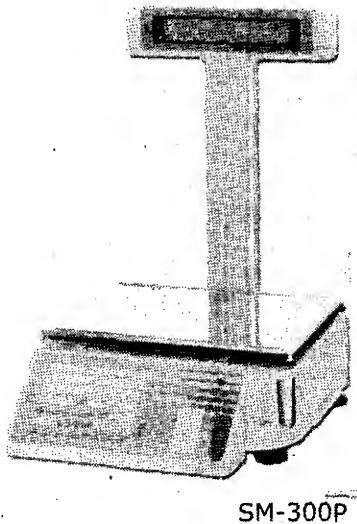
(उपभोक्ता मामले विभाग)

नई दिल्ली, 17 मई, 2006

का. आ. 2202.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इसैई टेराउका प्राइवेट लिमिटेड, 377/2, 6 क्रॉस, विल्सन गार्डन, बंगलौर-560 027 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले “एस.एम.” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का जिसके ब्रांड का नाम “डी आई जी आई” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/741 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) डग्गूल रेंज प्रकार का भार सेल आधारित अस्वचालित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 15 किंग्रा. है और न्यूनतम क्षमता 40 ग्राम है। सत्यापन मापमान अंतराल (ई) का मान 6 किंग्रा. पर 2 ग्राम तक और 6 किंग्रा. के ऊपर और 15 किंग्रा. तक 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



SM-300P

स्टार्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्राम से 2 ग्राम तक “ई” मान के लिए 100 से 10000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्राम या उससे अधिक के “ई” मान के लिए 500 से 10000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 किलोग्राम तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(203)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

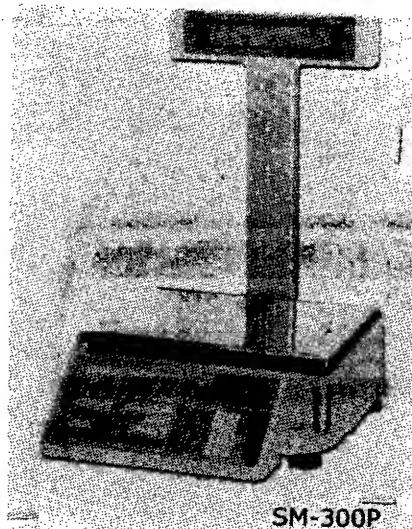
(Department of Consumer Affairs)

New Delhi, the 17th May, 2006

S.O. 2202.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of non-automatic (table top type) weighing instrument with digital indication of medium accuracy (Accuracy class-III), series 'SM' and with brand name "DIGI" (herein referred to as the said model), manufactured by M/s. Essae Teraoka Pvt. Ltd., 377/2, 6th Cross, Wilson Garden, Bangalore-560 027 and which is assigned the approval mark IND/09/2005/741;

The said model is a load cell based dual range weighing instrument with a maximum capacity of 15kg and minimum capacity of 40g. The verification scale interval (e) is 2g up to 6kg and 5g above 6kg and up to 15kg. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts and 50Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(203)/2005]

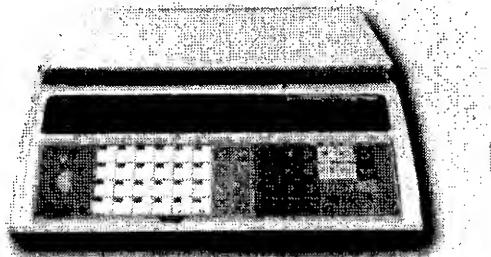
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 मई, 2006

का, आ. 2203.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इसैर्स टेराडका प्राइवेट लिमिटेड, 377/2, 6 क्रॉस, विल्सन गार्डन, बंगलौर-560 027 द्वारा विनिर्भृत मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले “आर. एम.” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का जिसके ब्रांड का नाम “डी आई जी आई” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/742 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) डियूल रेंज प्रकार का भार सेल आधारित अस्वचालित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 15 कि.ग्रा. है और न्यूनतम क्षमता 100 ग्राम है। सत्यापन मापमान अंतराल (ई) का मान 6 कि. ग्राम पर 2 ग्राम तक और 6 कि.ग्रा. के ऊपर और 15 कि.ग्रा. तक 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शात प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



RM-40

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्भृत उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्राम से 2 ग्राम तक “ई” मान के लिए 100 से 10000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्राम या उससे अधिक के “ई” मान के लिए 500 से 10000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 किलोग्राम तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या त्रहणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(203)/2005]

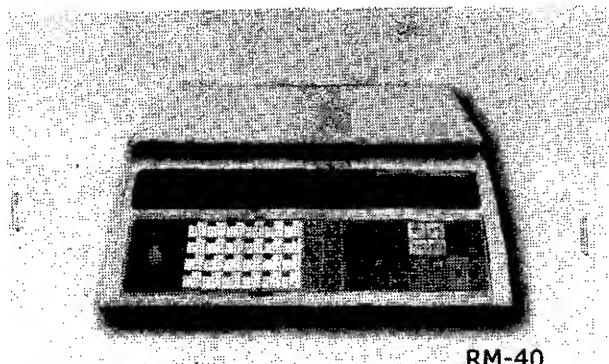
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th May, 2006

S.O. 2203.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of non-automatic (table top type) weighing instrument with digital indication of medium accuracy (Accuracy class-III), series 'RM' and with brand name "DIGI" (herein referred to as the said model), manufactured by M/s. Essae Teraoka Pvt. Ltd., 377/2, 6th Cross, Wilson Garden, Bangalore—560 027 and which is assigned the approval mark IND/09/2005/742;

The said model is a load cell based dual range weighing instrument with a maximum capacity of 15kg and minimum capacity of 100g. The verification scale interval (e) is 2g up to 6kg and 5g above 6kg and up to 15kg. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts and 50Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity up to 50kg with number of verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(203)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 मई, 2006

का.आ. 2204.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इसै, टेराइका प्राइवेट लिमिटेड, 377/2, 6 क्रॉस विल्सन गार्डन, बंगलौर-560027 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले “डी एस-315” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (क्रेन प्रकार) के मॉडल का जिसके ब्रांड का नाम “ई एसएस ए ई” है (जिसे इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/743 समनुदेशित किया गया है; अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार भार सेल आधारित अस्वचालित (क्रेन प्रकार) का मध्यम यथार्थता (यथार्थता वर्ग III) वाले तोलन उपकरण है। इसकी अधिकतम क्षमता 10,000 कि.ग्रा. है और न्यूनतम क्षमता 10 कि.ग्राम है। सत्यापन मापमान अन्तराल (ई) का मान 5 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्शन तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टार्टिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबद्ध भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि.ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मान अन्तराल (एन) सहित 50 कि.ग्रा. से अधिक और 50,000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^8 , 2×10^8 या 5×10^8 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(203)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th May, 2006

S.O. 2204.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (See the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) (hereinafter referred to as the said Act) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Crane type) with digital indication of "DS-315" series of medium accuracy (accuracy class-III) and with brand name "ESSAE" (hereinafter referred to as the said model), manufactured by M/s. Essae Teraoka Pvt. Ltd., 377/2, 6th Cross, Wilson Garden, Bangalore-560 027 and which is assigned the approval mark IND/09/2005/743;



The said model is a strain gauge type load cell principle based non-automatic weighing instrument (Crane type) of medium accuracy (accuracy class-III) with a maximum capacity of 10,000 kg and minimum capacity of 100 kg. The verification scale interval (e) is 5 kg. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent from opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 50 kg and up to 50,000 kg and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 kg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(203)/2005]

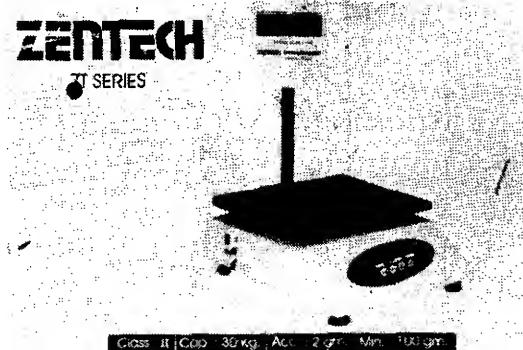
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 मई, 2006

का.आ. 2205.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जेनटैक इंस्ट्रूमेंट्स प्रा.लि., 303, दूसरी मंजिल, अस्थित प्लाजा, उदयपुर-310001, राजस्थान द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले “जेड टी-30” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “जेनटैक” है (जिसे इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2006/228 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक विकृत गैज प्रकार का भार सैल आधारित अस्वचालित तोलन उपकरण (टेबलटॉप प्रकार) है। इसकी अधिकतम क्षमता 30 किलो ग्रा. है और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 2 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टार्मिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा और मॉडल को इसके सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, वर्किंग सिद्धान्त आदि के रूप में कोई परिवर्तन न किया जा सके।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि.ग्रा. से 50 मि.ग्रा. के 'ई' मान के लिए 100 से 50000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि.ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 किलोग्राम तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

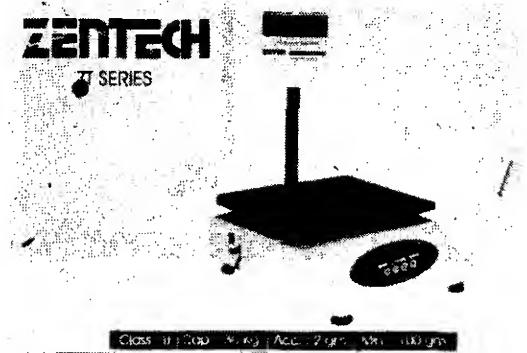
[फा. सं. डस्ट्री एम-21(153)/2004]
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th May, 2006

S.O. 2205.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table type) with digital indication of "ZT-30" series of high accuracy (accuracy class-II) and with brand name "ZENTECH" (hereinreferred to as the said Model), manufactured by M/s. Zentech Instruments Pvt. Ltd, 303, 2nd Floor, Arihant Plaza, Udaipur-310001, Rajasthan and which is assigned the approval mark IND/09/06/228;

The said Model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity of 30 kg and minimum capacity of 100 g. The verification scale interval (e) is 2 g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity upto 50 kg and with number of verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1 mg to 50 mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg or more and 'e' value of the form 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

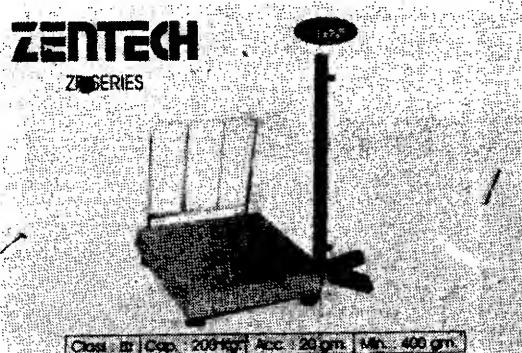
[F. No. WM-21(153)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 मई, 2006

का. आ. 2206.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और भाष मानक अधिनियम, 1976 (1976 का 60) तथा बाट और भाष मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जेनटैक इंस्ट्रुमेंट्स प्रा.लि., 303, दूसरी मॉजिल, अरिहंत प्लाजा, उद्योगपुर-310001, राजस्थान द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले “जेड पी-200” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का जिसके ब्रॉड का नाम “जेनटैक” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2006/229 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल (नीचे दी गई आकृति देखें) एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) है। इसकी अधिकतम क्षमता 200 कि.ग्रा. है और न्यूनतम क्षमता 400 ग्रा. है। सत्यापन मापमान अंतराल (ई) 20 ग्राम है। इसमें एक आधयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनामक धारित आधयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन यरिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टार्टिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबंद किया जाएगा और मॉडल को इसके सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, वर्किंग सिद्धान्त आदि के रूप में कोई परिवर्तन न किया जा सके।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्राम या उससे अधिक के ‘ई’ मान के लिए 500 से $10,000$ तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 किलोग्राम से अधिक और 500 किलोग्राम तक की अधिकतम क्षमता वाले हैं और “ ई ” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

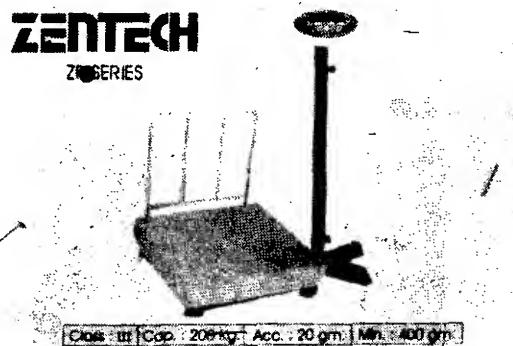
[फा. सं. डब्ल्यू एम-21 (153)/2004]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक भाष मिजान

New Delhi, the 17th May, 2006

S.O. 2206.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication of "ZP-200" series of medium accuracy (accuracy class-III) and with brand name "ZENTECH" (herein referred to as the said Model), manufactured by and which is assigned the approval mark IND/09/2006/229.



The said Model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity of 200 kg. and minimum capacity of 400g. The verification scale interval (e) is 20 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The light emitting diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50Hertz alternat current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make and performance of same series with maximum capacity above 50kg. and upto 500kg. with the number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'c' value of the form 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

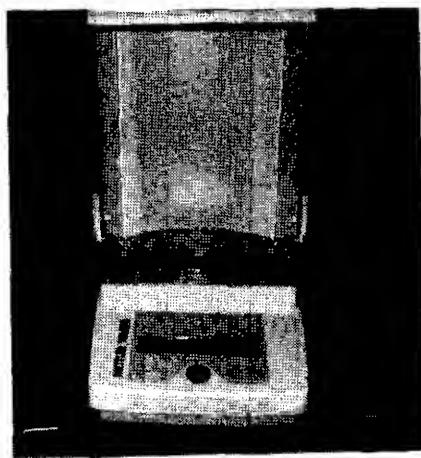
[F. No. WM-21(153)/2004]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 मई, 2006

का. आ. 2207.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा फिसीकलेश टेबनीस्के बैंडेसेस्टालट (पी टी बी), जर्मनी, द्वारा जारी माडल अनुमोदन प्रमाण-पत्र सहित उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की उपधारा (3) के तीसरे परन्तुक और धारा 36 की उपधारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मैटलर टोलिडो गम्बर्एच, आईएम लांगयर 8606 ग्रीफेन्सी स्विटजरलैण्ड द्वारा निर्मित और बिना परिवर्तन या योग के भारत में मै. आशको इण्डस्ट्रीज लि. लैब हाउस, एक-13, एम आई डी सी, अंधेरी (ई) मुंबई-400093 द्वारा बिना किसी परिवर्तन और परिवर्धन के बिक्रीत विशिष्ट यथार्थता वर्ग (यथार्थता वर्ग 1) वाले “ए एल” शृंखला के अंकक सूचन सहित अस्वचालित, इलैक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के माडल का, जिसके ब्रांड का नाम “मैटलर टोलिडो” है और जिसे अनुमोदन चिन्ह आई एन डी/13/05/552 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक इलैक्ट्रॉनिक और मापने वाले सैल आधारित अस्वचालित (टेबल टॉप प्रकार के) तोलन उपकरण है। इसकी अधिकतम क्षमता 210 ग्रा. और $\text{ई} = 1\text{मि.ग्रा.}$ और अधिकतम क्षमता 51 ग्रा. और $\text{ई} = 1\text{मि.ग्रा.}$, सत्यापन मापमान अंतराल के संबंध में $\text{ई} \geq 1\text{ मि.ग्रा.}$ के लिए एन $\leq 210,000$ है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। लिकिवड क्रिस्टल डिस्प्ले (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्टज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टार्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

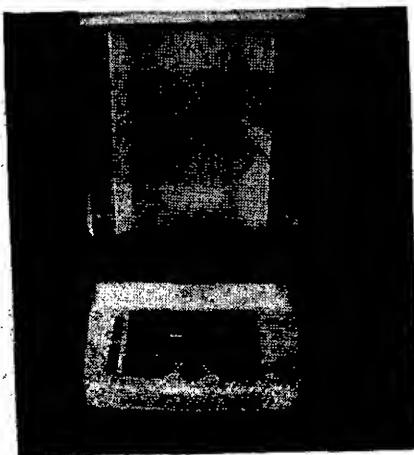
[फा. सं. डब्ल्यू एम-21(113)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 17th May, 2006

S.O. 2207.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, along with the model approval certificate issued by the Physikalisch-Technische Bundesanstalt (PTB), Germany is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by third proviso to sub -Section (3) and sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby approves, issues and publishes the certificate of approval of the model of the non-automatic weighing instrument (Table top type) with digital indication of Special accuracy class (Accuracy Class-I) and of series "AL" with brand name "Mettler-Toledo" and manufactured by M/s. Mettler-Toledo GmbH, Im Langacher, 8606 Greifensee, Switzerland and sold in India without any alteration or additions by M/s. Ashco Industries Limited, Lab House, F-13, MIDC, Andheri (E), Mumbai-400093 and which is assigned the approval mark IND/13/05/552;



The said model is an electronic and measuring cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 210g, $e = 1\text{mg}$ and maximum capacity 51g, $e = 1\text{mg}$ in respect of verification scale interval $n > 210,000$ for $e < 1\text{mg}$. It has a tare device with 100 per cent subtractive retained tare effect. The liquid crystal display (LCD) indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent from opening of the machine for fraudulent practices.

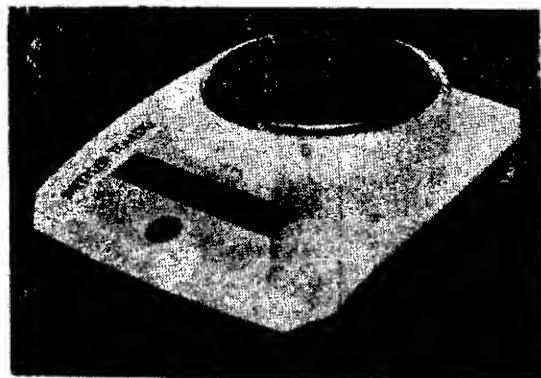
[F. No. WM-21(113)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 17 मई, 2006

का. आ. 2208.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा फिसीकलेश टेक्नीस्के बैंडसेंट्रालट (पी टी बी), जर्मनी, द्वारा जारी मॉडल अनुमोदन प्रमाण-पत्र सहित उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और भाष मानक अधिनियम, 1976 (1976 का 60) तथा बाट और भाष मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की उप-धारा (3) के तीसरे परन्तुक और धारा 36 की उप-धारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मैटलर टोलिडो गम्बर्च, आईएम लांगयेर 8606 ग्रीफेन्सी स्विटजरलैण्ड द्वारा निर्मित और बिना परिवर्तन या योग के भारत में मै. आशको इण्डस्ट्रीज लि. लैब हाउस, एफ-13, एम आई डी सी, अंधेरी (ई) मुंबई-400093 द्वारा बिना किसी परिवर्तन और परिवर्धन के बिक्री किए गए उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाले “पी एल-एस/जे एल-सी/जे एल-जी” शृंखला के अंकक सूचन सहित अस्वचालित, इलैक्ट्रॉनिक तोलन उपकरण (टेबल टॉप प्रकार) के माडल का, जिसके ब्रांड का नाम “मैटलर टोलिडो” है और जिसे अनुमोदन चिह्न आई एन डी/13/05/553 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक इलैक्ट्रॉनिक और भाषने वाले सैल आधारित अस्वचालित (टेबल टॉप प्रकार के) तोलन उपकरण है। इसकी अधिकतम क्षमता 8100 ग्रा., ई = 1 ग्रा. और अधिकतम क्षमता 81 ग्रा., ई = 10 मि.ग्रा. के लिए सत्यापन भाषमान अंतराल के संबंध में $\text{ई} \geq 1 \text{ मि.ग्रा.}$ के लिए एन ≤ 15500 है। इसमें एक आइयटुलन युक्ति है जिसका शात प्रतिशत व्यावक्सनात्मक धारित आइयटुलन प्रभाव है। लिकिवड क्रिस्टल डिस्प्ले (एल सी डी) प्रवर्ती तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ड्ज प्रस्थावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग एलेट के मुद्रांकन के अतिरिक्त भशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

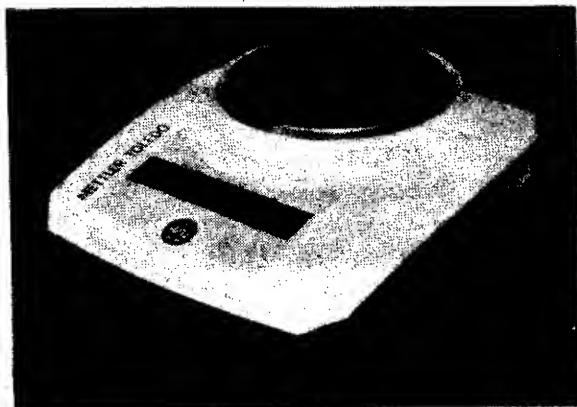
[फा. सं. डब्ल्यू एम-21(113)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक भाष विज्ञान

New Delhi, the 17th May, 2006

S.O. 2208.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, along with the Model approval certificate issued by the Physikalisch-Technische Bundesanstalt (PTB), Germany is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by third proviso to sub-section (3) and sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby approves, issues and publishes the certificate of approval of the model of the non-automatic weighing instrument (table top type) with digital indication of high accuracy class (Accuracy Class-II) and of series "PL-S/JL-C/JL-G" with brand name "Mettler-Toledo" and manufactured by M/s. Mettler-Toledo GmbH, Im Langacher, 8606 Greifensee, Switzerland and sold in India without any alteration or additions by M/s. Ashco Industries Limited, Lab House, F-13, MIDC, Andheri(E), Mumbai-400093 and which is assigned the approval mark IND/13/05/553;



The said model is an electronic and measuring cell based non-automatic weighing instrument (Table Top type) with a maximum capacity of 8100g, $e = 1\text{mg}$ and maximum capacity 81g, $e = 10\text{mg}$ in respect of verification scale interval $n \leq 15,500$ for $e \geq 1\text{mg}$. It has a tare device with a 100 per cent subtractive retained tare effect. The liquid crystal display (LCD) indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent from the opening of the machine for fraudulent practices.

[F. No. WM-21(113)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2209.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसरस सोनी इंस्ट्रूमेंट्स, प्लाट सं. 16, भीरा इंडस्ट्रियल एस्टेट, रिंग रोड, बी/एच आजी जी आई डी सी, राजकोट, गुजरात द्वारा निर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले “पी एस-30” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का जिसके ब्रांड का नाम “सोनी इंस्ट्रॉमेंट” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/94 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है;



उक्त मॉडल एक विकृत गेज प्रकार का लोड सेल आधारित अस्वचालित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 किंग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्राम है। इसमें एक आद्येयतुलन युक्ति है जिसका शात प्रतिशत व्यवकलनात्मक धारित आद्येयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टार्टिंग प्लेट के मुद्राकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट रूपरेखा, कार्यकारी सिद्धान्त आदि के संबंध में घटला नहीं जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1. मि. ग्राम से 50. मि.ग्रा. तक ‘ई’ मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मान अन्तराल (एन) और 100 मि.ग्रा. या उससे अधिक के ‘ई’ मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान सहित 50 किलोग्राम तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^8 , 2×10^8 या 5×10^8 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(306)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2209.—Whereas the Central Government, after considering the report submitted to it by prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by third to sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of the non-automatic weighing instrument (Table top type) with digital indication of high accuracy (Accuracy Class-II) of series "PS-30" and with brand name "Sony Instrument" (hereinafter referred to as the said model), manufactured by M/s Sony Instrument, Plot No. 16, Mira Industrial Estate, Ring Road, B/H Aji G.I.D.C., Rajkot, Gujarat and which is assigned the approval mark IND/09/06/94;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts and 50Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50kg with verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

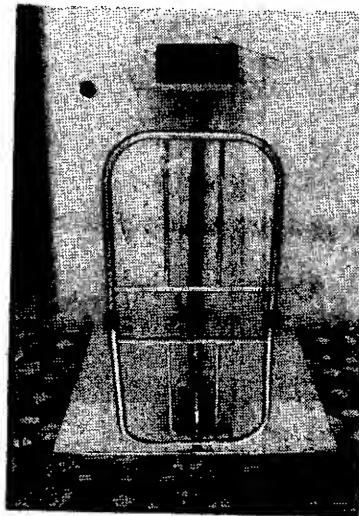
[F. No. WM-21(306)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का.आ. 2210.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सोनी इंस्ट्रूमेंट्स, प्लाट सं. 16, मीरा इंडस्ट्रीजल एस्टेट, टिंग रोड, बी/एच आजी जी आई डी सी, राजकोट, गुजरात द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले “आईएस-1” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (स्लेटफार्म प्रकार) के मॉडल का जिसके ब्रांड का नाम “सोनी इंस्ट्रूमेंट” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/95 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है;



उक्त मॉडल एक विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित (स्लेटफार्म प्रकार का) तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 2 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 100 ग्राम है। इसमें एक आघोषतुलन युक्त है जिसका शत प्रतिशत व्यवकलनात्मक धारित आघोषतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टार्मिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट रूपरेखा कार्यकारी सिद्धान्त आदि के संबंध में बदला नहीं जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन के अनुसार और उसी सामग्री से, जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मात्र (एन) अन्तराल सहित 50 कि.ग्रा. से 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(306)/2005]
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2210.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (Accuracy Class-III) of series "I.S. 1" and with brand name "Sony Instrument" (hereinafter referred to as the said Model) manufactured by M/s. Sony Instrument, Plot No. 16, Mira Industrial Estate Ring Road, B/H Aji G.I.D.C., Rajkot, Gujarat and which is assigned the approval mark IND/09/06/95;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg and minimum capacity of 2 kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing rest is. The instrument operates on 230 Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and upto 5000 kg with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

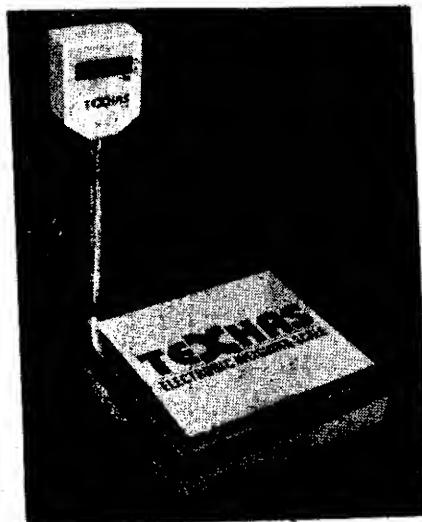
[F. No. WM-21(306)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

क्र. आ. 2211.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर टेक्सहास सिसट्स, 39 अयप्पा ब्लाक, सुल्तानपेल्या, आर टी नगर, बांगलौर-32 द्वारा विनिर्भृत मध्यम यथार्थता (यथार्थता वर्ग III) वाले “टीटीपी” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का जिसके ब्रांड का नाम “टेक्सहास” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन विहन आई एन डी/09/05/1027 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र जारी और प्रकाशित करती है;



उक्त मॉडल एक विकृति गेज प्रकार का भार सेल आधारित अस्वचालित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 5 ग्राम है। इसमें एक आद्यतुलन युक्ति है जिसका शास्त्र प्रतिशत व्यवकलनात्मक धारित आद्यतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रबर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 बोल्ट, 50 हर्ड्ज प्रस्थावर्ती धारा विषुत प्रशाय पर कार्य करता है।

स्टार्टिंग स्लेट को मुद्राकृत करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खालने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे अनुमोदित मॉडल विनिर्भृत किया गया है, विनिर्भृत उसी शृंखला के वैसे ही भेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2ग्रा. तक 'ई' मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या शून्य के समतुल्य हैं।

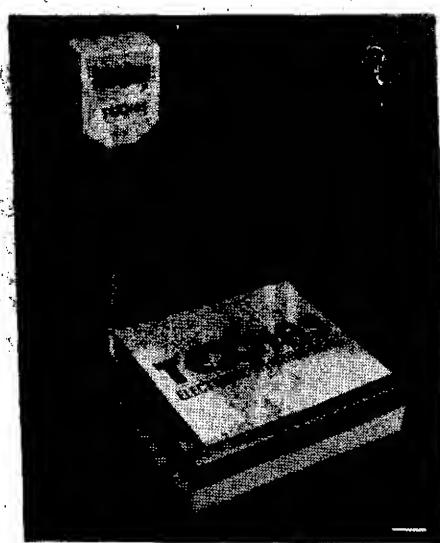
[फा. सं. डब्ल्यू एम-21(288)/2005]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2211.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the non-automatic (Table Top type) weighing instrument with digital indication of "TTP" series of medium accuracy (Accuracy Class-III) and with brand name "TEXHAS" (herein referred to as the said Model) manufactured by M/s. Texhas Systems, 39, Ayyappa Block, Sultanpalaya, R. T. Nagar, Bangalore-32 and which is assigned the approval mark IND/09/05/1027;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg and minimum capacity of 100mg. The verification scale interval (e) is 5g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

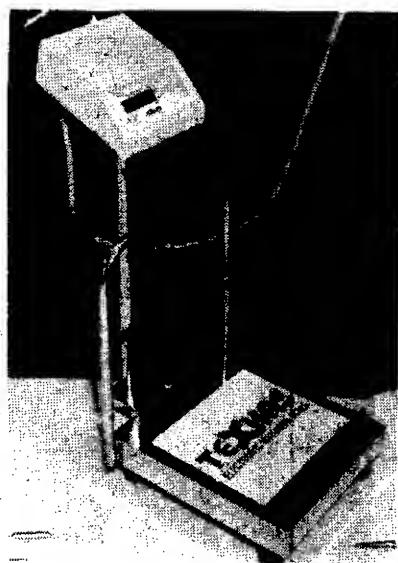
[F. No. WM-21(288)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2212.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स टेक्सहास सिस्टम्स, 39 अयप्पा ब्लाक, सुल्तानपल्ल्या, आर टी नगर, बंगलौर-32 द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “टी पी एस” शृंखला के अंकक सूचन सहित अस्वचालित, तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “टेक्सहास” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/1028 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का लोड सेल आधारित तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 4 कि.ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 200 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा।

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान (एन) अन्तराल सहित 50 कि.ग्रा. से 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^6 , 2×10^6 या 5×10^6 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(288)/2005]
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2212.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-Sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of self indicating non-automatic (Platform type) weighing instrument with digital indication of "TPS" series of medium accuracy (Accuracy class-III) and with brand name "TEXHAS" (herein referred to as the said model), manufactured by M/s. Texhas Systems, 39, Ayyappa Block, Sultanpalya, RT Nagar, Bangalore-32 and which is assigned the approval mark IND/09/05/1028;

The said model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity of 1000kg. and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of same series with maximum capacity above 50kg and up to 5000 kg. and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value 5g or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer with the same principle, design and with the same materials with which, the said approved model has been manufactured.

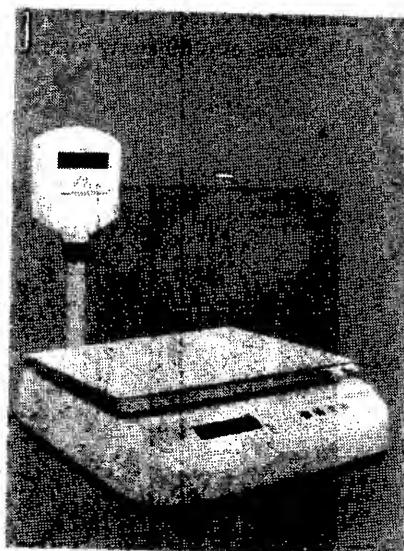
[F. No. WM-21(288)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2213.—केन्द्रीय सरकार का, विहृत प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मरिगाइंडस्ट्रीज, गांव नसीरपुर, हिसार रोड, अम्बाला सिटी, हरियाणा-134001 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले “सी एस” श्रृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबलटॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “मरिगा” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/06/48 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 10 कि.ग्रा. और न्यूनतम क्षमता 40 ग्रा. है। सत्यापन मापमान अंतराल (ई) का मान 2 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 200 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट रूपरेखा, कार्यकारी सिद्धांत आदि के संबंध में बदला नहीं जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के प्रनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक “ई” मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

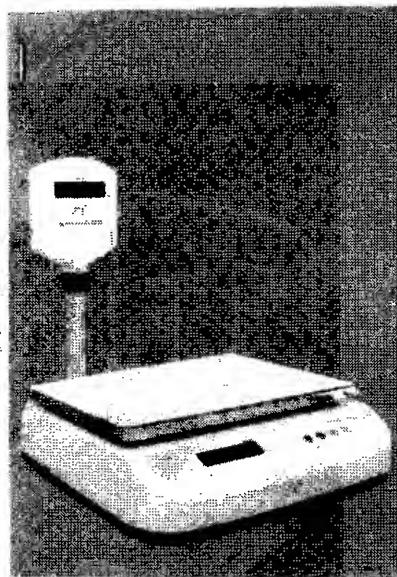
[फा. सं. डब्ल्यू एम-21(324)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2213.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of medium accuracy (Accuracy class-III) of series "CS" and with brand name "MRIGA" (hereinafter referred to as the said model), manufactured by M/s. Mriga Industries, Village-Nasirpur, Hissar Road, Ambala City Haryana-134 002 and which is assigned the approval mark IND/09/06/48;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 10kg. and minimum capacity of 40g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices. and model shall not be changed in terms of its material, design, circuit diagram, working principle etc.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg. to 2g. and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

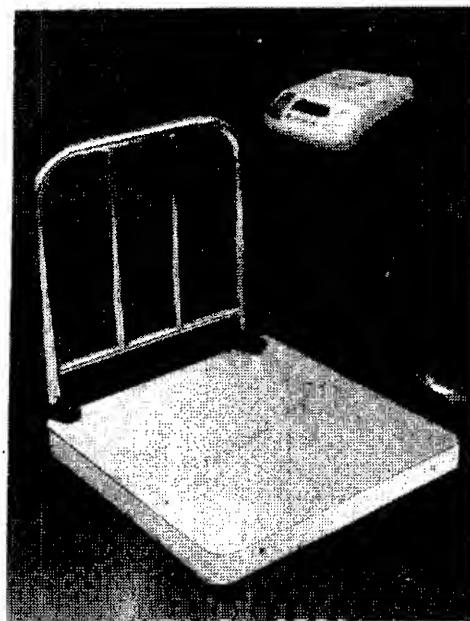
[F. No. WM-21(324)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का.आ. 2214.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मरिगा इंडस्ट्रीज, गांव नसीरपुर, हिसार रोड, अम्बाला सिटी, हरियाणा-134001 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले “पी एस” श्रृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “मरिगा” है (जिसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2006/49 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है ;



उक्त मॉडल एक विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित (प्लेटफार्म प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 500 कि.ग्रा. और न्यूनतम क्षमता 1 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल-ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉम्पिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट रूपरेखा, कार्यकारी सिद्धांत आदि के संबंध में बदला नहीं जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि. ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान सहित 50 कि. ग्रा. से अधिक और 1000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^4 से 2×10^4 तक या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

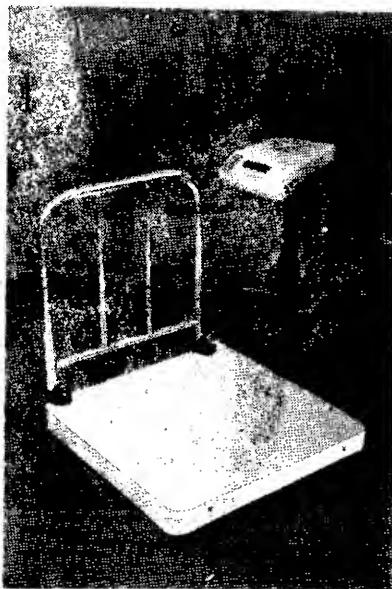
[फा. सं. डब्ल्यू एम-21(324)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2214.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (Accuracy class-III) of series "PS" and with brand name "MRIGA" (hereinafter referred to as the said Model), manufactured by M/s. Mriga Industries, Village Nasirpur, Hissar Road, Ambala City Haryana-134002 and which is assigned the approval mark IND/09/2006/49;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 500 kg. and minimum capacity of 1 kg. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices. and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc.

Further, in exercise of the power conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 1000 kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

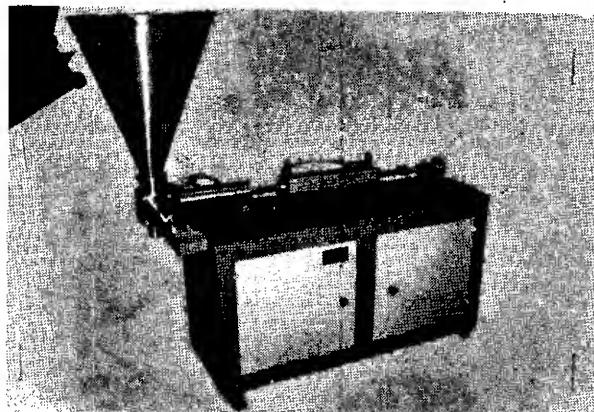
[F. No. WM-21(324)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का.आ. 2215.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स पैकलॉक मशीन्स प्रा. लि., कलेतुमकारा, त्रिचुर जिला, केरल-680683 द्वारा विनिर्मित “डी डी जेड-1000” शृंखला के स्वतःसूचक, स्वचालित ग्रेविमीट्रिक फिलिंग उपकरण (पिस्टन फिलर) के मॉडल का, जिसके ब्रांड का नाम “पैकलॉक” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2006/84 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है;



उक्त मॉडल मैकेनिकल प्रकार का एक स्वचालित ग्रेविमीट्रिक फिलिंग उपकरण (वे फिलर प्रकार) है। इसकी अधिकतम क्षमता 1000 ग्रा. या मि. लि./लि. में समान मात्रा है। इसका प्रयोग विस्कस उत्पादों जैसे बनस्पति तेल, बनस्पति धी, मारगेरिन, ग्रीस, तरल साबुन आदि भरने के लिए किया गया है। तरलों की मात्रा और विस्कोसिटी पर निर्भर करते हुए यह प्रति मिनट 20 से 25 भरण (अधिकतम) करता है।

स्टॉम्पिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा।

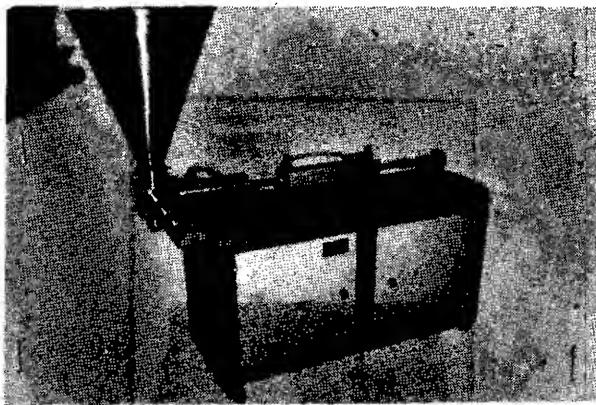
और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित 2 ग्रा. से 1000 ग्रा. की रेंज की क्षमता के साथ उसी शृंखला के बैसे ही भेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे।

[फा. सं. डब्ल्यू एम-21(315)/2005]
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2215.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of self indicating, Automatic Gravimetric Filling Machine (Piston Filler) of mechanical type of "DDZ-1000" series with brand name "PACKLOCK" (hereinafter referred to as the said Model), manufactured by M/s. Packlock Machines (P) Ltd., Kallettumkara, Trichur District, Kerala-680683 and which is assigned the approval mark IND/09/2006/84;



The said Model is an automatic gravimetric filling machine (Piston Filler) of mechanical type with a maximum capacity of 1000g. or equivalent volume in ml/litres. It is used for filling of viscous liquid products like vegetable oils, vanaspati ghee, margarine, grease, liquid soap etc. as the case may be. It fills 20 to 25 fills per minute (max.) depending upon the quantity and viscosity of the liquids.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make and performance of same series with capacity in the range of 2g. to 1000g. or equivalent volume manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(315)/2005]

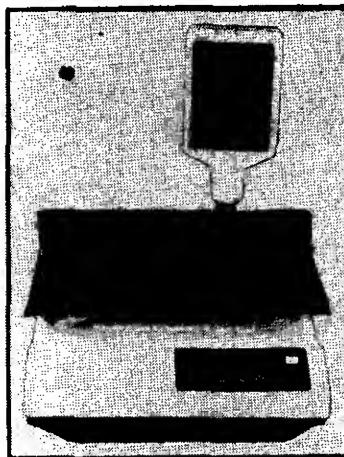
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2216.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स अनैक्स डिजिटल स्केल, 10, मरवा कॉम्लैक्स, नारायण मिल कम्पाउण्ड, ऐट्रोल पम्प के सामने, सी टी एम, अहमदाबाद-380026 द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले “एडीएसटीटी-30” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबलटॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “ओटोटैक” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन 2005/500 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक विकृति गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अंतराल (ई) 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यक्तिनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 बोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टाम्पिंग स्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माण द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही भेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक “ई” मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान (एन) अंतराल सहित 50 किलोग्राम तक की अधिकतम क्षमता वाले हैं और “ई” मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(149)/2005]

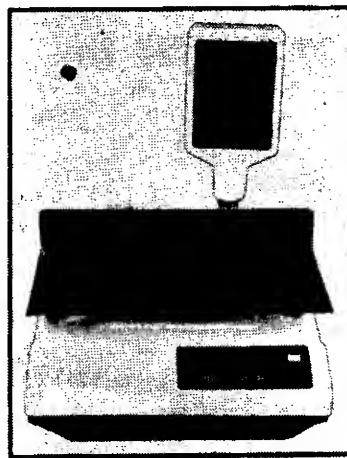
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2216.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic (Table top type) weighing instrument with digital indication of "ADSTT-30" series of medium accuracy (Accuracy class-III) and with brand name "AUTOTECH" (herein after referred to as the said model), manufactured by M/s. Anex Digital Scale, 10, Marva Complex, Narayan Mill Compound, Opp. Petrol Pump, C.T.M. Ahmedabad-380 026 and which is assigned the approval mark IND/09/05/500;

The said model (see the figure given below) is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(149)/2005]

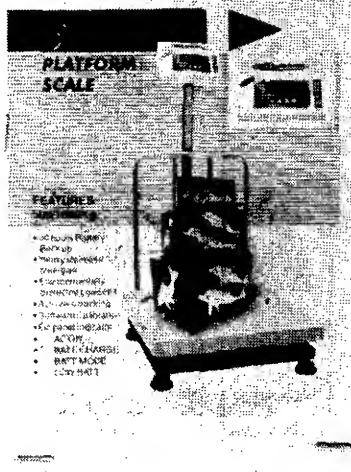
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2217.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लागतार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स अनैक्स डिजिटल स्केल, 10, मरवा कॉम्प्लैक्स, नारायण मिल कम्पाउण्ड, पेट्रोल पम्प के सामने, सी टी एम, अहमदाबाद-380026 द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग-II) वाले “एडीएसपीएफ-600” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “ओटोटैक” है (जिसे इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/501 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल (नीचे दी गई आकृति देखें) एक विकृति गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) है। इसकी अधिकतम क्षमता 600 कि.ग्रा. है और न्यूनतम क्षमता 2.5 किलो ग्रा. है। सत्यापन भापमान अन्तराल (ई) 50 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टॉम्पिंग फ्लैट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए भी सीलबन्द किया जाएगा और मॉडल को इसके सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, वर्किंग सिद्धांत आदि के रूप में कोई परिवर्तन न किया जा सके।

और केन्द्रों सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के ३ अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के बैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. या उससे अधिक के “ई” मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन भापमान अन्तराल (एन) सहित 50 किलोग्राम से अधिक और 2000 किलोग्राम तक की अधिकतम क्षमता वाले हैं और “ई” मान $1 \times 10^*$, $2 \times 10^*$ या $5 \times 10^*$, के हैं, जो धनात्मक याऋणात्मक पूर्णक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(149)/2005]

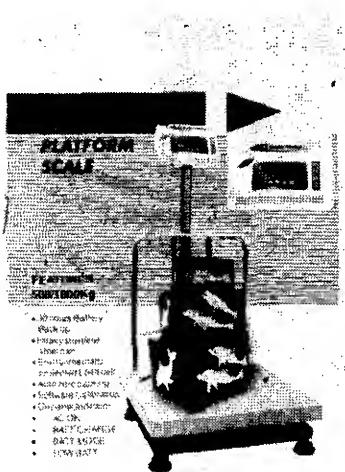
पी. ए. कृष्णामूर्ति, विदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2217.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of "ADSPF-600" series of high accuracy (Accuracy class-II) and with brand name "AUTOTECH" (herein after referred to as the said model), manufactured by M/s. Anex Digital Scale, 10, Marva Complex, Narayan Mill Compound, Opp. Petrol Pump, C.T.M. Ahmedabad-380 026 and which is assigned the approval mark IND/09/05/501;

The said model (see the figure given below) is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 600kg. and minimum capacity of 2.5g. The verification scale interval (e) is 50g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed terms of its material, accuracy, design, circuit diagram, working principle etc.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity ranging above 50 kg to 2000 kg and with number of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design, accuracy and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(149)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2218.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शबरी इलैक्ट्रॉनिक्स, 21, सेलवराजपुरम, चित्तामनिपुद्र, कोयम्बतूर-641103 तमिलनाडु द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “सी ई-टी बी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “चक्र” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/06/100 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का लोड सेल आधारित अस्वचालित (टेबल टॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ड्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉम्पिंग स्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट रूपरेखा आदि के संबंध में बदला नहीं जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्मित द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक “ई” मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अन्तराल (एन) और 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^8 , 2×10^8 या 5×10^8 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

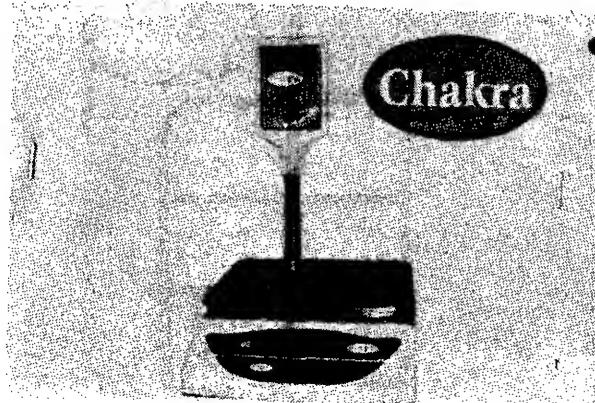
[फा. सं. डब्ल्यू एम-21(340)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक भाषा विज्ञान

New Delhi, the 18th May, 2006

S.O. 2218.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of medium accuracy (Accuracy class-III) of series "SE-TB" and with brand name "CHAKRA" (hereinafter referred to as the said model), manufactured by M/s. Sabari Electronics, #21, Selvarajpuram, Chintamanipudur, Coimbatore-641 103, Tamil Nadu and which is assigned the approval mark IND/09/06/100;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 5g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices, and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg. to 2g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

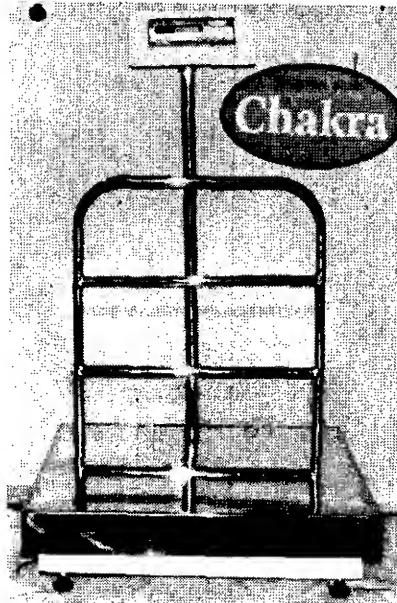
[F. No. WM-21(340)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2219.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शबरी इलैक्ट्रॉनिक्स, 21, सेलवराजपुरम, चिंतामनिपुरु, कोयम्बतूर-641103 तमिलनाडु द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “सी ई-पी टी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम “चक्र” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/06/101 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) है। इसकी अधिकतम क्षमता 1000 कि. ग्रा. और न्यूनतम क्षमता 4 कि. ग्रा. है। सत्यापन मापमान अन्तराल 200 ग्रा. है। इसमें एक आधेतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डियोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 बोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉम्पिंग प्लेट को सील करने के अतिरिक्त भशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सार्किट डायग्राम, निष्पादन सिद्धांत आदि की शर्तों पर परिवर्तित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 50 कि. ग्रा. से अधिक और 5000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^6 , 2×10^6 या 5×10^6 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(340)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2219.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (Accuracy class-III) of series "SE-PT" and with brand name "CHAKRA" (hereinafter referred to as the said model), manufactured by M/s. Sabari Electronics, #21, Selvarajpuram, Chintamanipudur, Coimbatore-641 103, Tamil Nadu and which is assigned the approval mark IND/09/06/101;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000kg. and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with a 100 per cent subtractive retained tare effect. The light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices. and model shall not be changed in terms of its material, accuracy design, circuit diagram, working principle etc.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg. and up to 1000 kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 g. or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

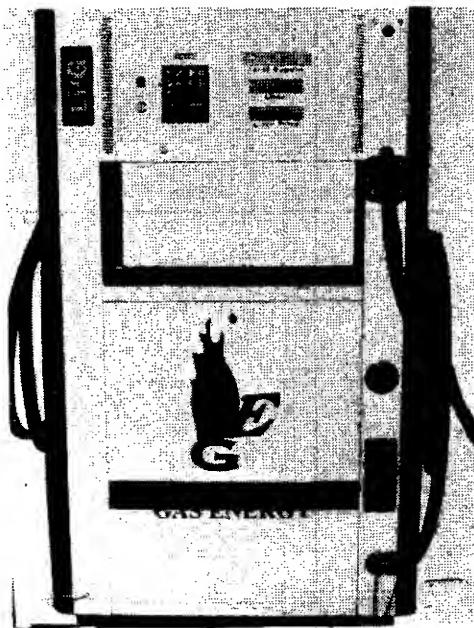
[F. No. WM-21(340)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2220.—केन्द्रीय सरकार का, उसे प्रस्तुत रिपोर्ट के साथ पैट्रन मूल्यांकन रिपोर्ट और विहित प्राधिकारी, निदेशक माप तथा मानक के इस प्रयोजनार्थ अधिसूचित निकाय, ट्रकी गणतंत्र द्वारा दिए गए अनुमोदित जांच परिणाम में उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बाट की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) और तीसरे उपबन्ध की उपधारा (3) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स आटो गैस एनर्जी इंडिया लिमिटेड, नं. 39/4141, एम जी रोड, रवि पुरम, कोचीन 862 016 द्वारा भारत में बेचा जाता है और मैसर्स अल्फा टेक्नीक मकीना, सेन टिक लिमिटेड, सटी, ओरनेक सेन, सिट 22, सोक नं. 3, कुलुकेंट सैमसन, टर्की द्वारा निर्मित है। 'एल्फा-1' और 'एल्फा-2' शृंखला के एल पी जी डिसपेंसर के माडल का, जिसके ब्रांड का नाम "बीटा" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/13/06/183 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल चार पिस्टन टाइप इलैक्ट्रॉनिक एल पी जी डिसपेंसर है जिसे कपों से सील किया गया है। सिलेंडर के फेस कवरों से बन्द कर दिए गए हैं। इसका उपयोग मोटर वाहनों में तरलीकृत प्रोपेन/बुटेन को डिसपेंस करने हेतु किया जाता है। इसमें मात्रा और मूल्य के लिए प्री सेट सुविधा है। प्रदर्श माप लिकिवड क्रिस्टल डिस्प्ले प्रकार का है। मीटर में 6 अंकों का प्रदर्श मूल्य हेतु, 6 अंकों का प्रदर्श मात्रा के लिए और 4 अंकों का प्रदर्श मात्रा के लिए है। यह 220 वोल्ट, 50 हर्ड्ज ए सी पावर सप्लाई पर काम करता है। इसका अधिकतम प्रवाह 50 लीटर प्रति मिनट और न्यूनतम प्रवाह 5 लीटर प्रति मिनट है। अधिकतम आपरेंट्व दबाव 25 बार है। इसमें एक 8 अंकों का नान रिवर्सेबल इलैक्ट्रॉनिक टोटलाइजर भी है।

स्टार्मिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा और इस मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, कार्यकारी सिद्धांतों आदि की शर्तों पर परिवर्तित/परिवर्धित नहीं किया जाएगा।

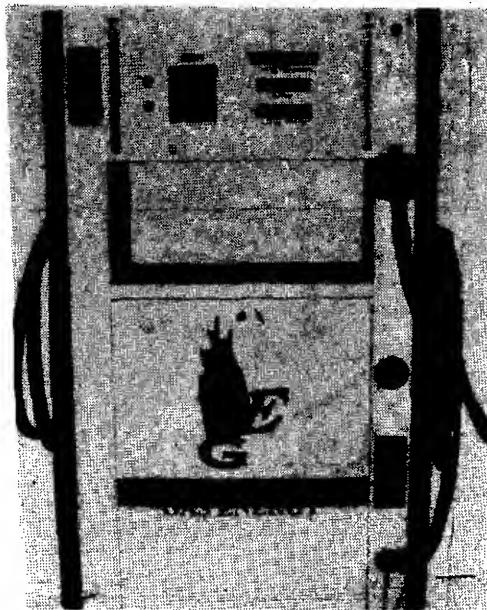
[फा. सं. डब्ल्यू एम-21 (346)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2220.—Whereas the Central Government, after considering the report submitted to it along with the pattern evaluation report and test result granted and approved by the prescribed authorized authority, a notified body for the purpose in the Director of Measurements and Standards, Republic of Turkey, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by the third proviso to Sub-section (3) and Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby approves, issues and publishes the certificate of approval of the model of LPG dispenser of series 'ALFA-1' and 'ALFA-2' and with brand name "BETA" (hereinafter referred to as the model), marketed in India by M/s Auto Gas Energy India Ltd., No. 39/4141, M. G. Road, Ravipuram, Cochin-682 016 and manufactured by M/s. Alfa Teknik Makina, San Tic. Ltd, Sti, Ornek San. Sit. 22, Sok No. 3, Kullukent, Samsun, Turkey and which is assigned the approval mark IND/13/06/183;



The said model is a four piston type electronic LPG dispenser which is sealed with cups. The Cylinder faces are closed with covers. It is used for dispensing of liquified propane/butane mixture into motor vehicles. It is having pre-set facility for volume and price. The display measurement is liquid crystal dispaly (LCD) type. The meter is having 6 digits display for price, 6 digits display for volume and 4 digits display for volume. It operates on 220 Volts, 50 Hertz AC power supply. The maximum flow rate is 50 litre/minute and minimum flow rate is 5 litre/minute. The maximum operating pressure is 25 bar. There is also non-re-setable 8-digits electronic totalizer.

In addition to sealing the stamping plate, sealing shall also be done to prevent from opening of the machine for fraudulent practices. and model shall not be changed in terms in terms of its material, accuracy, design, circuit diagram, working principle etc.

[F. No. WM-21(346)/2005]

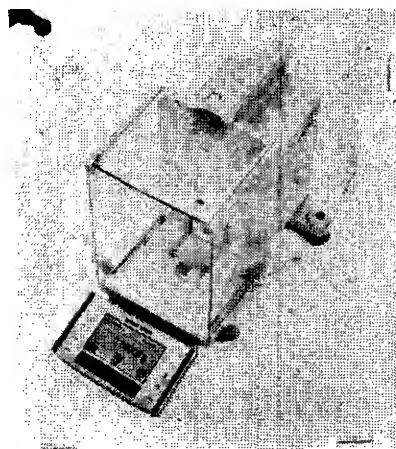
P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2221.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मेटल टोलेडो इण्डिया प्रा. लि., अमर हिल, साकी विहार रोड, मुंबई-400072 द्वारा विनिर्भित विशेष यथार्थता वर्ग (यथार्थता वर्ग-1) वाले “एक्स पी” शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबलटॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “मेटलर टोलेडो” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2006/60 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल एक मोनो ब्लॉक तकनीक आधारित अस्वचालित तोलन उपकरण (टेबलटॉप प्रकार) है। इसकी अधिकतम क्षमता 520 ग्रा. है और न्यूनतम क्षमता 100 मि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) 1 मि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



स्टार्मिंग स्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा और मॉडल को इसके सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, वर्किंग सिद्धांत आदि के रूप में कोई परिवर्तन न किया जा सके।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्भित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. या उससे अधिक के “ई” मान के लिए 50,000 तक की रेंज में सत्यापन मापमान अन्तराल (एन) सहित 50 किलोग्राम तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^8 , 2×10^8 या 5×10^8 , के हैं, जो धनात्मक या ऋणात्मक पूणीक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(339)/2005]

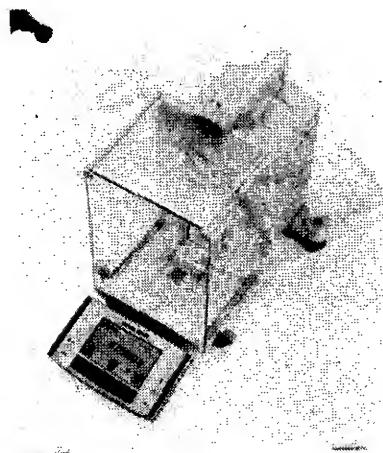
पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2221.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the models described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of, non-automatic weighing instrument (Table top type) with digital indication belonging to special accuracy (Accuracy class-I) of 'XP' series with brand name "Mettler Toledo" (herein referred to as the said model), manufactured by M/s. Mettler Toledo India Private Limited, Amar Hill, Saki Vihar Road, Mumbai-400072 and which is assigned the approval mark IND/09/06/60;

The said model is a mono-block technology based non-automatic weighing instrument (Table top type). Its maximum capacity is 52g. and minimum capacity of 100mg. The value of verification scale interval (e) is 1mg. ($d=0.1\text{mg.}$). It has a tare device with a 100 per cent subtractive retained tare effect. The Liquid Crystal Display (LCD) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed terms of its material, accuracy, design, circuit diagram, working principle etc.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50 kg with verification scale interval (n) in the range of 50,000 or more for 'e' value of 1mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

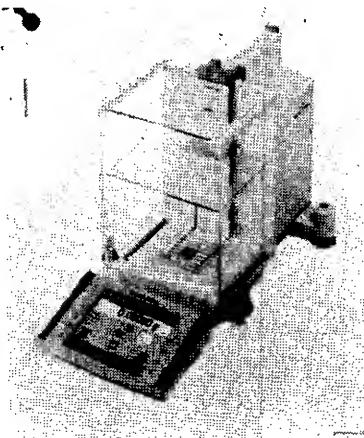
[F. No. WM-21(339)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2222.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स मेटलर टोलेडो इण्डिया प्रा. लि., अमर हिल, साकी विहार रोड, मुंबई-400 072 द्वारा विनिर्मित विशेष यथार्थता वर्ग (यथार्थता वर्ग-I) वाले “एक्स एस” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम “मेटलर टोलेडो” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2006/61 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक मोनो ब्लॉक तकनीक आधारित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) है। इसकी अधिकतम क्षमता 220 ग्रा. है और न्यूनतम क्षमता 100 मि. ग्रा. है। सत्यापन मापमान अंतराल (ई) 1 मि. ग्राम (डी = 0.1 मि. ग्राम) है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्पर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉम्पिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा और मॉडल को इसके सामग्री, यथार्थता, डिजाइन, सर्किंग डायग्राम, वर्किंग सिद्धान्त आदि के रूप में कोई परिवर्तन न किया जा सके।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्राम या उससे अधिक “मान के लिए 50000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 किलोग्राम तक की अधिकतम क्षमता वाले हैं और ‘गान 1×10^4 , 2×10^4 या 5×10^4 , के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

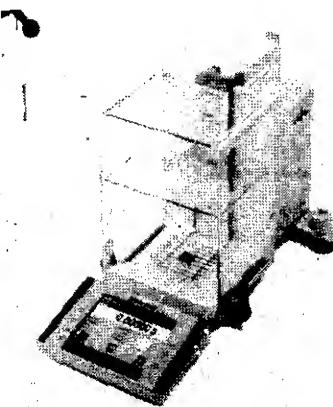
[फा. सं. डब्ल्यू एम-21(339)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2222.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over period of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of model of non-automatic weighing instrument (Table top type) with digital indication belonging to special accuracy (Accuracy class-I) of "XS" series with brand name "Mettler Toledo" (herein referred to as the said model), manufactured by M/s. Mettler Toledo India Private Limited, Amar Hill, Saki Vihar Road, Mumbai- 400 072 and which is assigned the approval mark IND/09/2006/61;



The said model is a mono-block technology based non-automatic weighing instrument (Table Top type). Its maximum capacity is 220g and minimum capacity 100mg. The value of verification scale interval (e) is 1mg. ($d = 0.1\text{mg}$). It has a tare device with 100 per cent subtractive retained tare effect. The Liquid Crystal Display (LCD) indicates the weighing result. The instrument operates on 230 Volts, 50Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 50kg with verification scale interval (n) in the range of 50,000 or more for 'e' value of 1mg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

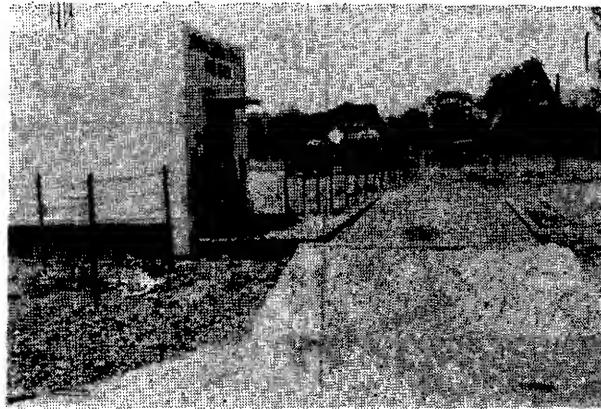
[F. No. WM-21(339)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2223.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए ऐसर्स सक्सैस इंस्ट्रुमेंट, नं. 1, गगन काम्पलैक्स, नजदीक ए आई आर, धनटोली, नागपुर 440 012, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले “सूखे” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (व्हे ब्रिज प्रकार) के मॉडल का जिसके ब्रांड का नाम “सक्सैस” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/1041 समनुदर्शित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृत गेज प्रकार का भार सेल आधारित अस्वचालित (व्हे ब्रिज) का तोलन उपकरण है। इसकी अधिकतम क्षमता 60 टन है और न्यूनतम क्षमता 200 कि. ग्राम है। सत्यापन मापमान अंतराल (ई) 10 कि.ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाइंपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सोलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि. ग्राम या उससे अधिक के “ई” मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से 200 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^6 , 2×10^6 या 5×10^6 के हैं, जो धनात्मक या क्लणात्मक पूर्णांक या शून्य के समतुल्य हैं।

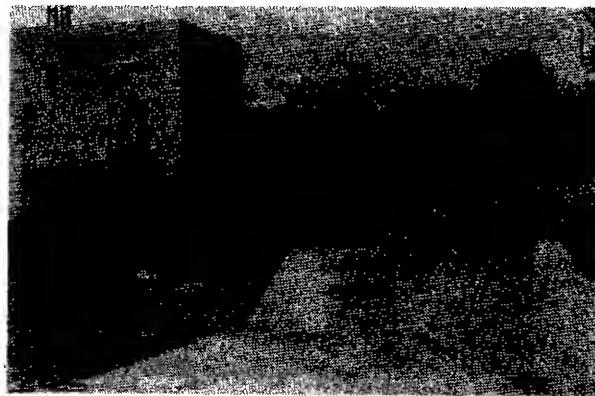
[फा. सं. डब्ल्यू एम-21(147)/2005]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक पाप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2223.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Weigh bridge type) with digital indication of series 'SUWE' and of medium accuracy (Accuracy class-III) with brand name "SUCCESS" (hereinafter referred to as the said model), manufactured by M/s. Success Instruments, No. 1, Gagan Complex, Near A.I.R., Dhantoli, Nagpur-440 012, Maharashtra and which is assigned the approval mark IND/09/2005/1041;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Weigh bridge type) with a maximum capacity of 60 tonne and minimum capacity of 200kg. The verification scale interval (e) is 10kg. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts, 50Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 200 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5kg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

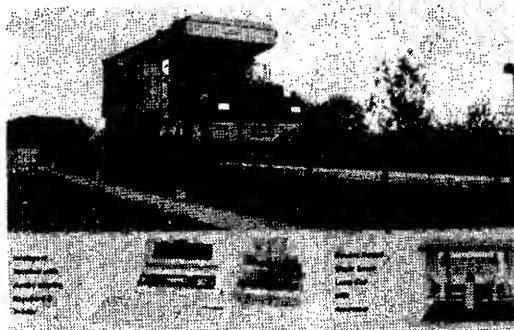
[F. No. WM-21(147)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

नई दिल्ली, 18 मई, 2006

का. आ. 2224.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सक्सेस इंस्ट्रूमेंट, नं 1, गगन काम्पलैक्स, नजदीक ए आई आर धनटाली, नागपुर-440012, महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाले “एस यू सी डब्ल्यू” शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (कनवर्शन किट फॉर व्ह ब्रिज प्रकार) के मॉडल का जिसके ब्रांड का नाम “सक्सेस” है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिन्ह आई एन डी/09/2005/1042 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार का भार सेल आधारित अस्वचालित (कनवर्शन किट फॉर व्ह ब्रिज प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 टन और न्यूनतम क्षमता 100 कि.ग्राम है। सत्यापन मापमान अंतराल (ई) 5 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपर्युक्त करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टार्मिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कठपुर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए सीलबन्ड भी किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तित/परिवर्धित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि.ग्रा. या उससे अधिक के ‘ई’ मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान अन्तराल सहित 5 टन से 100 टन तक की अधिकतम क्षमता वाले हैं और “ई” मान 1×10^8 , 2×10^8 या 5×10^8 , के हैं, जो धनात्मक या ऋणात्मक पूर्णक या शून्य के समतुल्य हैं।

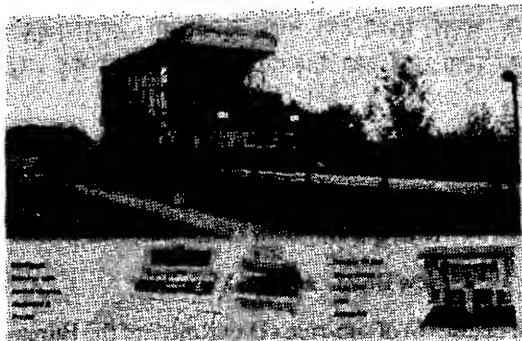
[फा. सं. डब्ल्यू एम-21(147)/2005]

पी. ए. कृष्णामूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 18th May, 2006

S.O. 2224.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Conversion kit for Weighbridge) with digital indication of series "SUCW" and of medium accuracy (Accuracy class-III) with brand name "SUCCESS" (hereinafter referred to as the said Model), manufactured by M/s. Success Instruments, No. 1, Gagan Complex, Near A.I.R., Dhantoli, Nagpur-440012, Maharashtra and which is assigned the approval mark IND/09/2005/1042;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Conversion kit for Weighbridge) with a maximum capacity of 30 tonne and minimum capacity of 100 kg. The verification scale interval (e) is 5 kg. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5tonne and up to 100 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5kg or more and with 'e' value of 1×10^k , 2×10^k or 5×10^k , where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(147)/2005]

P. A. KRISHNAMOORTHY, Director of Legal Metrology

(भारतीय मानक ब्यूरो)

नई दिल्ली, 23 मई, 2006

का. आ. 2225.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं:—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आईएस 12893:2006 प्रयोगशाला उपयोग के लिए पाइरोमीट्रिक संदर्भ शंकु—विशिष्टि (पहला पुनरीक्षण)	आईएस 12893:1990	28 फरवरी, 2006

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पूर्णे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[सं. एमटीडी 15/टी-99]

एस. के. गुप्ता, वैज्ञानिक-“एफ” एवं प्रमुख (एमटीडी)

(Bureau of Indian Standards)

New Delhi, the 23rd May, 2006

S. O. 2225.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & year of the Indian Standards Established	No. & year of Indian Standards, if any Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 12893 : 2006 Pyrometric reference cones for laboratory use—Specification (First Revision)	IS 12893 : 1990	28th February, 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : MTD 15/T-99]

S. K. GUPTA, Scientist-F & Head (MTD)

नई दिल्ली, 29 मई, 2006

का. आ. 2226.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए हैं मानक (कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1	आईएस 4250:1980 घरेलू विद्युत फूड मिक्सर (लिकिवडाइजर एवं ग्राइंडर) और अपकेन्द्री जूसर की विशिष्टि (प्रथम पुनरीक्षण) की संशोधन संख्या 9	9, फरवरी 2006	21 मार्च, 2006

इस भारतीय संशोधन की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शास्त्री कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर पटना, पूर्णे तथा तिरुवनन्तपुरम में विक्री हेतु उपलब्ध हैं।

[सं. ईटी 32/टी-29]

पी. के. मुखर्जी, वैज्ञानिक-“एफ” एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 29th May, 2006

S. O. 2226.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standard, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. & year of the Indian Standards	No. & year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 4250 : 1980 Specification for Domestic Electric Food-Mixers (Liquidizers and Grinders) and Centrifugal Juicers (Amendment No. 9 of First Revision)	9 February, 2006	21 March, 2006

Copies of this Amendment are available with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : ET 32/T-29]

P. K. MUKHERJEE, Scientist-F & Head (Electrical Technology)

नई दिल्ली, 30 मई, 2006

का. आ. 2227.—भारतीय मानक व्यूरो नियम 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1	आईएस 2470 (भाग 2):1985	2, मई 2006	31 मई, 2006

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[सं.: सीईडी /राजपत्र]

जे. सी. अरोड़ा, वैज्ञानिक-“ई” व प्रमुख (सिविल इंजीनियरी)

New Delhi, the 30th May, 2006

S. O. 2227.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 2470 (Part 2) : 1985	2 May, 2006	31 May, 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : CED/Gazette]

J. C. ARORA, Scientist-E & Head (Civil Engg.)

नई दिल्ली, 31 मई, 2006

का. आ. 2228.—भारतीय मानक ब्यूरो नियम 1987, के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1	6792 : 1992 विद्युत रोधन तेलों की विद्युत सामर्थ्य ज्ञात करने की पद्धति (पहला युनरीक्षण)	1, अप्रैल 2006	30 अप्रैल, 2006

इस भारतीय संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[सं. ईटी 03/टी-05]

पी. के. मुखर्जी, वैज्ञानिक-“एफ” एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 31st May, 2006

S. O. 2228.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. & year of the Indian Standards	No. & year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 6792 : 1992 Method for determination of electric strength of insulating oils (First Revision)	01 April, 2006	30 April, 2006

Copy of this Amendment is available with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : ET 03/T-05]

P. K. MUKHERJEE, Sci.-F & Head (Electrical Technology)

नई दिल्ली, 1 जून, 2006

का. आ. 2229.—भारतीय मानक ब्यूरो नियम 1987, के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं:-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (को) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आईएस 326 (भाग 3) : 2006 नमूने लेने और परीक्षण की पद्धतियाँ प्राकृतिक और संश्लेषित सुगन्ध सामग्री भाग 3 आपेक्षिक घनत्व ज्ञात करना (तीसरा पुनरीक्षण)	कुछ नहीं	मार्च, 2006
2	आईएस 6774 : 2006 सुगन्ध तेल वाले पौधों का वर्गीकरण (पहला पुनरीक्षण)	कुछ नहीं	अप्रैल, 2006

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूर्ण तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[सं. पीसीडी/जी-7 (गजट)]

डॉ. के. चौधरी, वैज्ञानिक-“एफ” एवं प्रमुख (पैट्रोल, कोयला एवं सम्बन्धित उत्पाद)

New Delhi, the 1st June, 2006

S. O. 2229.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & year and title of the Indian Standards Established	No. & year of Indian Standards, if any Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 326(Part 3) : 2006 Methods of sampling and test for natural and synthetic perfumery materials Part 3 Determination of relative density (third Revision)	None	March, 2006
2.	IS 6774: 2006 Classification of essential oil bearing aromatic plants (first Revision)	None	April, 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. PCD/G-7(Gazette)]

D. K. CHAUDHARY, Sci.-F & Head (PCD)

श्रम और रोजगार मंत्रालय
नई दिल्ली, 12 मई, 2006

का. आ. 2230.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुख्य पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, मुख्य के पंचाट (संदर्भ संख्या 4/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-06 को प्राप्त हुआ था।

[सं. एस-31012/28/1999-आईआर(एम)]
सी.गंगाधरण, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 12th May, 2006

S.O. 2230.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 4/2000 of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. 1 as shown in the Annexure in the Industrial Dispute between the management of Mumbai Port Trust, and their workmen, which was received by the Central Government on 11-5-2006.

[No. L-31012/28/1999-IR (M)]

C. GANGADHARAN, Under Secy.
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1

Mumbai

Present

Justice Ghanshyam Dass : Presiding Officer

Ref. No. CGIT-4 of 2000

PARTIES : Employers in relation to the management of Mumbai Port Trust

And

Their workman

APPEARANCES:

For the Management : Shri.Umesh Nabar, Adv.

For the Workman : Shri V.Narayanan, Adv.

State : Maharashtra

Mumbai, dated the 2nd day of may, 2006

AWARD

This is a reference made by the Central Government in exercise of its powers under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 *vide* Government of India, Ministry of Labour Order No.L-31012/28/99/IR (M) dated 24-1-2000. The schedule of reference is as follows :

“Whether the action of the management of Mumbai Port Trust in dismissing Shri Vijay Kumar Amritrao Jadhav from the services of Port Trust is legal and

justified. If not, to what relief the Workman is entitled?”

2. The workman Mr.Jadhav was working as Ambulance Driver at Princess Dock Medical Dispensary of Mumbai Port Trust. He was issued a charge sheet dated 29-3-1993 for misconduct on account of (i) leaving post of duty from 3.00 p.m. to 3.30 p.m. on 19-9-1992. (ii) reporting for duty under the influence of alcohol (iii) neglect of work (iv) failure to observe rules and regulations while on duty (v) behaving in indecent manner while on duty under Regulations Nos. 3(1)(1A)(iii)(xii) & 19 of B.P.T. Employees (Conduct) Regulation, 1976 read with Regulations 8 and 12 of B.P.T. Employees (Classification, Control and Appeal) Regulations 1976.

3. The facts relating to the aforesaid charges are being narrated as follows :

That on 19-9-1992, when Shri Vijay kumar Amritrao Jadhav, Ambulance Driver was posted for 2nd shift commencing from 3.00 p.m. at Prince's Dock Dispensary, he had brought a woman named Smt.Sunita Chinnava Chopade, a resident of Bhusawal to Prince's Dock Dispensary premises. Shri Jadhav signed the muster and disappeared with her from Prince's Dock Dispensary. At about 3.15 p.m. a patient with history of chest pain came at Prince's k Dispensary. The dresser on duty searched Shri Jadhav for transporting the said patient to Port Trust Hospital at Wadala in the ambulance, but he could not be traced. At about 3.30 p.m. Shri Jadhav returned with the said lady to the Prince's Dock Dispensary. He was reluctant to take the patient to Port Trust Hospital saying that he had to reach the lady to V.T. station but on insistence of the dressers he took out the ambulance. However, the ambulance broke down within a short distance and the patient was sent to Port Trust Hospital in a B.P.T.Jeep. Shri Jadhav returned to the dispensary, took the said woman to the locker room, closed the door and bolted from inside and was with her in the room for about an hour. The Medical Officer Incharge, Prince's Dock Dispensary, Dr.(Mrs) I. Aroojis came to Prince's Dock dispensary at about 5.30 p.m. for surprise check and noticed the said lady waiting to collect her bag which was locked in a taxi parked in the Dispensary premises and for Rs.50 which Shri.V.A.Jadhav had promised to give her. At about 6.00 p.m. Shri. V.A.Jadhav arrived and confirmed the above facts. He was smelling of alcohol and his eyes were conjested.

4. The list of documents as mentioned in the charge sheet was :

a. Letter No. PDD/999 dated 28-9-1992 from Medical Officer Incharge, Prince's Dock Dispensary to the Chief Medical Officer.

b. Statement dated 9-11-1992 by Shri S.H.Ambre, Dresser, Prince's Dock Dispensary.

c. Statement dated 11-11-1992 by Shri V.V.Khanvilkar, Hamal, Prince's Dock Dispensary.

- d. Statement dated 11-11-1992 by Shri M.Babu, Safaiwala, Prince's Dock Dispensary.
- e. Statement dated 12-11-1992 by Shri M.P. Parkar, Hamal, Prince's Dock Dispensary.
- f. Statement dated 13-1-1992 by Shri R.V.More, Dresser, Prince's Dock Dispensary.
- g. Statement dated 16-11-1992 by Shri M. B.Mormare, Dresser, Prince's Dock Dispensary.
- h. Statement dated 9-3-1993 by Shri G.B.Padaya, Dresser, Prince's Dock Dispensary.

The list of witness was also attached with the charge sheet. The domestic enquiry was instituted. It was accordingly conducted. The workman duly participated. He cross-examined the witnesses. He produced himself as a witness. He did not lead any evidence in defence. The workman submitted his written arguments after going through the written arguments submitted by the Presenting Officer on 10-1-1995 to the Enquiry Officer. The Enquiry Officer submitted its report dated 04-5-1995. The Enquiry Officer found that charges 1,2, and 3 were not proved on record. He found the workman guilty for misconduct for charges No.4 and 5 with respect to failure to observe rules and regulations while on duty and behaving in indecent manner while on duty. The workman received the copy of the enquiry report. He submitted his reply in the form of representation. The Competent Authority (Chief Medical Officer) finally passed the order of dismissal of the workman dated 29-9-1995. The Workman preferred his appeal against the punishment of dismissal and the same was rejected by the Chairman, Mumbai Port Trust *vide* detailed order dt.17-7-1997.

5. The workman has challenged the enquiry proceedings on the ground that it is not in accordance with the principle of natural justice. The charge sheet is vague and incorrect. The charge of consuming alcohol is not proved since the workman was not medically examined although he was working in the dispensary itself. The workman did not know English. He could not understand the enquiry proceedings. The enquiry is not just and fair. The workman was promised by the administration that the enquiry was just a formality and no action would be taken against the workman. The administration went back from the assurance and punished him with harsh penalty of dismissal which is unjustified.

The Management filed the written statement in detail narrating all the facts and circumstances and insisting that the enquiry was just and fair and there was no violation of any principle of natural justice. The workman himself had participated in the enquiry. He had also submitted reply in detail after receiving the report of the Enquiry Officer and show cause notice. The Competent Authority passed the order of dismissal in accordance with law. The appeal preferred by the workman was rejected by the Chairman of the Trust.

7. The workman filed his rejoinder and reiterated the same facts.

8. The workman filed his own affidavit in lieu of his examination in chief reiterating the same contents of Statement of claim and highlighting the fact that he had agreed to sign all the papers and documents during the enquiry since he was specifically told that the so called enquiry was a formality and that he was further assured that the matter would be closed after the enquiry. If he would have known that serious action may be taken against him he would have defended the enquiry properly. It is further stated that the Management did not examine the material witness Mrs. Sunita Chopde, lady, who was the star witness. The workman was not medically examined to prove the charge of consuming alcohol. In the cross-examination he stated that he signed his representation in English at the instance of Mr. Pawar. He also stated that he did not understand as to what was being written in his representation. Mr. Pawar was present during the enquiry as Presenting Officer. He had assured him that no action would be taken against him.

9. The Management filed the affidavit of Shri.A.J.Pawar, retired Administrative Officer. He was appointed as Presenting Officer in the enquiry proceedings. He proved the enquiry proceedings and other documents. He also stated that the enquiry was just and fair. The workman was explained the enquiry proceedings in English as well as in Marathi. The workman himself contested the enquiry through out without the assistance of any defence representative. He remained the Presenting Officer till his retirement and after that Mr .Paudwal became the Presenting Officer being his successor in office. It was not thought necessary to examine the lady Sunita Chopde since the workman himself had admitted his charge of drunkenness and guilt.

10. The Management filed the documents which have been duly exhibited.

11. I have heard the learned counsel for the parties and gone through the record. The written submissions made by the workman through his counsel have also been perused.

12. The first point for consideration is as to whether the enquiry is just and fair or there is any violation of principle of natural justice. After going through the record, I feel that the enquiry is just and fair. No cause is shown for inferring that the enquiry is not just and fair. The workman had participated in the enquiry throughout. He did not choose to have any defence representative though he was asked for that. He crossexamined the witnesses himself. He produced himself as a witness. He submitted his representation in English which is a detailed one. He admittedly received the report of the enquiry and submitted his reply there to. The Competent Authority passed the order on merits. The workman preferred the appeal and the

same was rejected by the Chairman of Mumbai Port Trust. The allegations that the workman did not know English has got no substance. It is clear on record that he knows English as well. It is also clear on record that the enquiry proceedings were being explained in English as well in Marathi. Each and every opportunity was given to the workman to defend himself. There is no violation of any principle of natural justice.

Now the question as to whether the report of the Enquiry Officer is based on the evidence on record.

14. After going through the evidence available on record, I feel that the facts as stated by Dr. (Mrs.) I.G. Aroojis (Medical Officer) are correct and believable. Her evidence gets corroboration from independent witness Mr. Parkar. The allegations on the face of it smell out something wrong on the part of the workman. The allegations are serious that the workman brought the lady Sunita Chopde to the dispensary for enjoyment and he paid Rs. 50 for it to that lady. The factum of bringing the lady to the dispensary is not disputed by the workman at any stage. In this background, the evidence of Doctor and Mr. Parkar is to be scrutinized. I do not find anything worth to disbelieve their evidence. The contention put forth by the workman that Dr. (Mrs.) Aroojis had the grudge against him since he did not oblige her by bringing a mechanic for repair of her car and did not follow her instruction at other stages too does not carry any weight for rejection of the evidence of Dr. (Mrs.) Aroojis. The allegations of the workman that Mr. Parkar had also a grudge against the workman to depose falsely against him is not acceptable. The workman did not put any suggestion to the lady witness and also to Mr. Parkar regarding the alleged grudges shown by him for the first time in his defence. He had not put forth such type of circumstances of grudges in his earlier replies. He had not mentioned even an iota of word with respect to the above grudges in his detailed written arguments submitted by him to the Enquiry Officer after going through the written submissions of the Presenting Officer. Hence the story as put forth by the workman for bringing the lady to the dispensary is not believable. The workman does not have any evidence to corroborate his story. The fact that the lady has not been examined by the Management is not going to affect adversely the case of the Management. It was not possible for the Management to produce the lady for giving evidence against the workman. The lady could be examined by the workman himself since she was residing in his neighbourhood. She was not produced under the pretext she left that residence without any address and he could not locate her for production. If it was so, how the management could produce her. The factum of bringing the lady by the workman during his duty hours in the dispensary itself speak out of volumes against the workman. The natural conclusion from this is that the lady was brought by the workman for enjoyment or for any other illegal purpose. It cannot be imagined that the entire case

has been concocted by Dr. (Mrs.) Aroojis against the workman deliberately for false implication of the workman. The alleged story of assurance for showing the enquiry as a mere formality is also not believable. The statement of Mr. A.J. Pawar (MW) is pointed out to show that he assured the workman that no action was contemplated against him and that the enquiry proceedings were mere formality. The evidence of Mr. Pawar is to be read as a whole. There appears to be apparently a typographical mistake of putting full stop at the wrong place. It cannot be stated that Mr. Pawar meant really that he assured the workman that the enquiry was mere formality. I have gone through the enquiry proceedings and the evidence of the witnesses and conclude that there is no material to term the evidence as unreliable. The evidence led by the Management in this case before the Enquiry Officer appears to be more than sufficient to prove the charges against the workman. I conclude that the Enquiry Officer was right in holding the workman guilty for misconduct.

In view of the gravity of the charge proved against the workman it cannot be stated that the punishment of dismissal is harsh or is not consonance with it. It cannot be stated to be shockingly disproportionate. The conduct of the workman is not tolerable or excusable. The workman cannot claim that a lighter punishment should have been given to him for the alleged misconduct. I feel that the punishment of dismissal is proper and justified.

16. Hence, I conclude that the action of the Management of Mumbai Port Trust in dismissing the workman is legal and justified. The workman is not entitled to any relief.

17. The Award is made accordingly.

Justice GHANSHYAM DASS, Presiding Officer
नई दिल्ली, 15 मई, 2006

का.आ. 2231.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ऑयल कं. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय कोलकाता के पंचाट (संदर्भ संख्या 35/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-5-2006 को प्राप्त हुआ था।

[सं. एल-30012/83/1997-आईआर(सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2231.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 35/98) of the Central Government Industrial Tribunal-cum-Labour Court Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of Indian Oil Co. Ltd., and their workmen, which was received by the Central Government on 8-5-2006.
 [No. L-30012/83/1997-IR (C-I)]
 S. S. GUPTA, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA

Reference No. 35 of 1998

Parties: Employers in relation to the management of
Indian Oil Corporation LimitedAND
Their workmen

Present :

Mr. Justice Hrishikesh Banerji
.....Presiding Officer

Appearance:

On behalf of Mr. N.C. Sinha, Senior Manager.
ManagementOn behalf of None.
Workmen

State : West Bengal Industry : Petroleum

Dated : 26th April, 2006

AWARD

By order No.L-30012/83/97-IR (C-I) dated 27-08-1998/03-09-1998 and subsequent letter of even number dated 19-07-1999 the Central Government exercise of its powers under Section 10(1) (d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the demand of I.O.C. Employees Union for giving direct employment to Shri Dudkumar Halder and 25 others by the management of I.O.C. Ltd. is justified ? If so, what relief the workmen are entitled to ?”

List of contractor workers working
at Budge, Budge Terminal : IOC : MD : ER
Loading and Unloading (Tanker and Barge)

Sl.No.	Name of workers	Nature of Job	Daily Wages
1	2	3	4
01.	Dudkumar Halder	Loading and Unloading	Rs.140.00
02.	Abdul Samad	-do-	-do-
03.	Kesto Mondal	-do-	-do-
04.	Moni Bera	-do-	-do-
05.	Sailen Banerjee	-do-	-do-
06.	Debrasad Samanta	-do-	-do-

1	2	3	4
07.	Amin Aktar	Loading and Unloading	Rs.140.00
08.	S.K. Ibrahim	-do-	-do-
09.	Sankar Mondal	-do-	-do-
10.	Moninandra Nath Adhikary	-do-	-do-
11.	S.K. Ayub	-do-	-do-
12.	Biswanth Das	-do-	-do-
13.	S.K. Asraf Ali	-do-	-do-
14.	Sisir Das	-do-	Rs. 110.00
15.	Santosh Balmiki	-do-	-do-
16.	Sukumar Adhikary	-do-	-do-
17.	Palash Gh. Bar	-do-	-do-
18.	Bishnu Bahadur	-do-	-do-
19.	Somnath Manna	-do-	-do-
20.	Nabakumar Mondal	-do-	-do-
21.	Prabir Ghoroi	-do-	-do-
22.	S.K. Nasimuddin	-do-	-do-
23.	Prabir Ganguly	-do-	-do-
24.	Ashok Shaw	-do-	-do-
25.	Anjan Dutta	-do-	-do-
26.	Somnath Mukherjee	-do-	-do-

2. This reference has been made at the instance of Indian Oil Employee's Union, hereinafter to be referred as the union. The union in its written statement stated that the issue of direct Employment of the workmen under the service of the Corporation who were and are under contract system and/or under contractor arose as a serious dispute between the management and the union. It is further stated that after prolonged and protracted negotiations two sets of settlements were arrived at between the parties on 02-03-1996. One such settlement was relating to payment of wages to the workers employed under contract system at the rate payable to the casual workers by the Corporation. The other settlement was relating to empanelment of 28 workers employed under contractors at Barauni establishment of the Corporation within 31-05-1996 and their direct employment. The union stated strangely that the said two memorandum of understandings dated 02-03-1996 and the memorandum of understanding dated 04-03-1996 are to be deemed as recorded as part of the facts of the case indetermining the reference. It is further stated that the union *vide* letter dated 17-04-1996 informed the matter to the management with a copy to the Regional Labour Commissioner (Central), Kolkata. It is also stated that the RLC (C), Kolkata being the conciliation officer held several conciliation meetings and in the conciliation proceedings dated 28-06-1996 it is recorded that after prolonged discussions both the parties

agreed to resolve all issues recorded in earlier proceedings through bilateral discussions, but the management failed and neglected to discuss and settle the issues. It is further stated that on being asked one M/s. S.N. Building Works by a letter dated 20-11-96 addressed to the RLC (C), Kolkata disclosed that the loading and unloading of petroleum products with all allied jobs of tankers and barges at Budge Budge installation of I.O.C. were done by the workers employed by the contractor for over decades leaving only a small portion of the jobs to be done by permanent workers of the Corporation and the contract between the management and the contractor was valid upto 31-07-1995. It is also stated that the said M/s. S.N. Building Works supplied a list of 26 workmen employed at Budge Budge installation of the Corporation. According to the union out of the said 26 workmen Dukumar Halder, Manindra Nath Adhikary, Moni Bera, Debaprasad Samanta, Sailen Banerjee, Amin Akter, Kesto Mondal, Sankar Mondal, Abdul Samad, Ibrahim Ayub, Biswanath Das and Asraf Ali were employed by M/s. S.N. Building Works or its predecessor on and from April, 1976 and the rest of the workmen were employed by the said S.N. Building Works on and from 01-07-1995 in the service of the Corporation at its Budge Budge installation for carrying out the jobs of loading, unloading of petroleum products from Barges and Tankers through pipelines laid and maintained by the aforesaid workers. It is stated that on and from February they were paid Rs. 140 per day being the rate of wages for the casual workers in the Corporation and they were working continuously for over 240 days in a year. According to the union those workers were employed under the contractors upto 30-06-1995 and from 01-07-1995 they were under the direct employment but under the supervision of the said contractor till 31-07-1996. It is further stated that these 26 workers were employed in the services of the Corp. At its Budge Budge installation for various periods upto 20 years. It is also stated that these 26 workmen like other permanent workers were employed for loading an unloading of petroleum oil products from tankers and barges, connecting and disconnecting of pipes and hoses and all other related jobs for carrying day-to-day business and all commercial activities at Budge Budge installation of the Corporation and they were engaged in perennial jobs of the Corporation. It is further stated that since 1st August, 1995 there was no subsisting contract between the contractor, therefore, it cannot be said that the contractor was supervising the jobs of the concerned workmen from 01-08-1995 to 31-07-1996 and these workmen should be deemed to be in direct employment of the Corporation. It is also stated the contractor relinquished supervision of these workmen since August, 1996 and, therefore, the workmen are in direct employment of the Corporation after August, 1996. It is further stated that the Corporation empanelled 28 workmen of Barauni establishment under settlement dated 02-03-1996 as a step towards their direct employment and, therefore, the Corporation is legally bound to employ the concerned

workmen directly. It is prayed on behalf of the workmen that the concerned workmen be given direct employment under the Corporation with all past consequential benefits and wages.

3. In the written statement filed by the management it is stated that the I.O.C. has a terminal at Budge Budge where petroleum products are stored which are brought by barge or tanker and are discharge into storage tanks through hoses. It is also stated that since the arrival of vessels carrying those products is intermittent and time taken for discharging them is variable, it is not commercially feasible for the Corporation to employ permanent staff in connecting and disconnecting the hoses through which the oil is discharged. It is stated that this work is entrusted to contractors. It is also stated that upto 11-12-1996 M/s. S.N. Building Works was the contractor engaged by I.O.C. to do the work of connection and disconnection of hoses by writing contracts which were extended in writing upto 31-07-1995 and thereafter extended upto 11-12-1996 by conduct of the parties. It is further stated that the I.O.C. is duly registered as a principal employer in terms of the Contract Labour (Regulation & Abolition) Act, 1970 and the said S.N. Building Works was duly licensed in respect of the contracted work in terms of the said Act. It is also stated that the contract labour in the said work was not and is not prohibited by the said Act. It is further stated that the persons named against serial Nos. 1 to 13 in the order of reference were employed by S.N. Building Works upto 11-12-1996 as contract labourers to do the contracted work and after termination of contract with the said S.N. Building Works the said persons ceased to work at the said terminal or in any establishment of I.O.C. It is also stated that after termination of the contract with S.N. Building Works another contractor, namely, Prakash Enterprises was appointed to do the said work and said Prakash Enterprises did the said work by employing persons other than those named in the order of reference. It is categorically stated that the persons named against Serial Nos. 14 to 26 in the order of reference never worked at I.O.C.'s. terminal at Budge Budge or in any other establishment of I.O.C. The management denied the allegations and contentions of written statement of the union in *seriatim*. It is further stated that the work of connection and disconnection of hoses has always been done by contract labour at I.O.C.'s. Budge Budge Terminal and is still being done so and employment of such contract labour in this work has not been prohibited by the Contract Labour (Regulation & Abolition) Act, 1970. It is also stated that any direction upon the management to employ the persons named would be direct abolition of contract labour which is beyond the authority of the Tribunal. It is further stated that the job in question does not require the continuous presence of the workmen as barges and tankers call only intermittently at *Budge Budge* and also while they are discharging there is no need for presence of any workmen.

According to the management the process is eminantly suitable for the use of contract labour as they can be employed elsewhere by the contractor when there is no work for them at the Terminal of I.O.C. It is also stated that the workmen concerned were the employees of a contractor and have ceased to work at I.O.C.'s terminal since 11-12-1996 and they have no claim to regular employment under I.O.C. It is stated that the concerned workmen are not entitled to any relief.

4. A rejoinder is also filed on behalf of the workmen denying the contentions of the management as made in its written statement and also reiterating its contentions already made in its own written statement.

5. It appears from the records of the case that the union was earlier contesting the case and it not only filed written statement and rejoinder on behalf of the workmen, but also exhibited several documents and examined three witnesses in support of their case. But, since 05-02-2004 the union stopped taking any interest in the matter. Finding no other alternative this Tribunal allowed the management to examine its witness and the said witness was also discharged without cross-examination as there was nobody to cross-examine him. Management also filed a written notes of argument. Finally, on 26-04-2005 the representative of the management stated that since the union was not taking any step to contest the case, the matter be disposed of on the basis of its written notes of argument. This Tribunal in the circumstances, having no other alternative, decided to pass an Award of disposal of the matter on the basis of materials available on records.

6. Several documents have been exhibited on behalf of the workmen in this case. Ext. W-1 is a list of workmen engaged at Budge Budge under the Corporation submitted by one M/s. S.N. Building Works. Ext. W-2 is the memorandum of understanding dated 02-03-1996 between the management of the Corporation and the union. Amongst others it is stated in this document that the issues of other contract labourers and agreements and other issues will be resolved at the regional level. Ext. W-2/1 is another memorandum of understanding dated 02-03-1996 regarding payments to the seven workers of Dum Dum AFS. This understanding also indicates steps to be taken for empanelment of about 28 workers at Barauni establishment. Ext. W-3 is an inter office memo dated 04-03-1996 for enhancement of daily wages for seven contractor's workers at Calcutta AFS. Ext. W-4 is another note dated 04-03-1996 for enhancement of labour rate for 38 labourers. Ext. W-5 is a letter of the union dated 17-04-1996 addressed to the Director (marketing) of the Corporation. Ext. W-6 to W-15 are the various correspondences relating to the conciliation proceedings before the Regional Labour Commissioner (Central), Kolkata. Ext. W-16 is a letter addressed to S.N. Building Works by the Union dated 13-12-1996 regarding payment of wages of 26 workmen employed at Budge

Budge under the Corporation. Ext. W-17 is the letter dated 14-12-1996 of M/s. S.N. Building Works addressed to the union in reply to Ext. W-16 enclosing certain documents. Exts. W-18 series are also different letters of the Assistant Labour Commissioner (Central), Kolkata to the Corporation. Ext. W-19 is an inter office memo issued by the Terminal Manager, Budge Budge Terminal of the Corporation dated 21-03-1997 asking for clarification regarding payment of wages. Ext. W-20 is a letter dated 19-11-1998 of the Corporation addressed to the union regarding approval of empanelment of 28 labourers as per agreement dated 02-3-1996. These documents clearly show that the concerned workmen were contractor's workmen.

7. Management also exhibited some documents. Ext. M-1 is letter issued by the Assistant Labour Commissioner dated 26-04-1996 to M/s. S.N. Building Works regarding issuance of licence and Ext. M-1/1 is the licence dated 22-03-1996 issued to the S.N. Building Works under the Contract Labour (Regulation & Abolition) Act, 1970 for doing the work of handling contract for connection/disconnection of hoses at Budge Budge Terminal of the Corporation. Ext. M-1/2 is the notice of completion of contract between the Corporation and M/s. S.N. Building Works dated 11-12-1996. Ext. M-2 is the letter dated 16-06-1994 of the Corporation to M/s. S.N. Building Works appointing it as contractor for handling connection/disconnection of hoses at Budge Budge Terminal. Ext. M-2/1 is another letter dated 25-07-1995 addressed to M/s. S.N. Building Works extending the contract for connection/disconnection of hoses at Budge Budge Terminal. Ext. M-3 is the telegram dated 11-12-1996 addressed to M/s. S.N. Building Works terminating the contract in this regard. Ext. M-4 is an offer dated 04-12-96 issued to M/s. Prakash Enterprises for Hose handling of tankers and barges contract at Budge Budge and Paharpur. Ext. W-5 is extract of Wage sheet showing payment to 13 labourers of M/s. S.N. Building Works. Ext. M-6 is a notice dated 22-02-1997 issued by the management to the workers of S.N. Building Works regarding payment of wages. Ext. M-7 is another such notice dated 23-04-1997 to the workers of said S.N. Building Works. These documents show that there were only 13 such contract labourers.

8. Altogether three witnesses have been examined on behalf of the workmen. WW-1 Moni Bera has stated that he is working for the last 20 years in the I.O.C. as contract labour in the Tanker Bunker. He stated that he used to report to the management and his work used to be supervised by the management of I.O.C. According to him he was paid on daily basis at the rate of Rs.140 per day. He also stated that he was being paid by the contractor. According to him there were permanent staff in the Company for doing the job which he used to perform. He stated that although the contract was terminated on 30-06-1995, but he continued to work and received payment after 01-07-1995 from the contractor. But, he did not receive

payment since February, 1996 and asked the management of the Company for payment. He also stated that in 1996 a new contractor was engaged and the said new contractor removed him. He further stated that he is still working in the Company but his work for the present for 15 days in a month under the contractor. He prayed for regularisation in service. In cross-examination this witness stated that he worked for about 20 years under the contractor K.B. Das & Sons. He further stated that he was not given any appointment letter either by the contractor or by the Company. He knew that there was an agreement between the management and the contractor. He further stated that the subsequent contractor was M/s. Prakash Enterprises and he worked under this contractor for 6 months, but he does not remember the date from which he worked as such. He, however, stated that he did not receive any payment from Prakash Enterprises. He reiterated that he was regularly working under this contractor.

WW-2, Deb Prasad Samanta stated that he worked at Budge Budge Indian Oil Corporation Ltd. for the last about 20 years at Jetty for loading/unloading of ships. He also stated that the supervisors of IOC Ltd. used to check the tankers and supervise the work. According to him two types of loading and unloading used to be done, i.e. ship and barge. He further stated that when hose pipe used to get choked and developed defect he used to sent it for mending. He also stated that their work used to be supervised by the officers of I.O.C. and there were permanent workers also for this work. He further stated that payments were made by S.N. Building Contractor till July, 1995, but they continued to work thereafter. He further stated that their rates of wages was Rs.140 per day and in case of overtime double the said rate, but no overtime was paid to them. He also stated that the officer of IOC had told them to continue to work and assured them the payments and they continued to work upto December, 1996 in this way. He further stated that another contractor was engaged by the management and he got his own hands to do the work and this contractor worked upto June, 1997. On the next breath he however stated that he had worked under this contractor and the contractor thereafter expelled them. This witness went on saying that thereafter and still now they are working in the Budge Budge Installation, but they did not receive any payment since February, 1996. In cross-examination the witness stated that he happened to be a contractor labourer, but he has no evidence to show that he had worked under the contractor S.N. Builder. He named the present contractor as M.S. Trader. Although he stated in chief that he did not receive any payment since February, 1996, in cross-examination he stated that M.S. Trader the present contractor pays them at the rate of Rs.140 per day. He, however, admitted that he has no proof to show that he has been working even after 1996 and that the permanent employees also worked with them in similar work. He further stated that he started working first under

M/s. K.B. Das and then under M/s. S.N. Builders and then under M/s. Prakash Enterprise and all of them used to pay him @ Rs. 140 per day. He also stated that he has no paper to show that the officer of the management supervised their work. He denied that there is no basis of their claim.

WW-3 Baroneswar Bhattacharya is the General Secretary of the union. He stated that he is aware of the issues involved in this reference and the facts relating to the issue. He further stated that these 26 workers was working in the Budge Budge Terminal of I.O.C. and the first 13 workers of the list were working for 20 years or more and the remaining 13 were working for less than 20 years. It is also stated by him that they were doing loading and unloading job and they were taken because the number of permanent workers were not sufficient. He further that M/s. S.N. Building works a contractor was the employer of these workers and the officers of the Terminal of IOC were in charge of supervision of their work. According to him original the contract period was upto April, 1995 and thereafter it was extend upto 31st July, 1995 but, the workers continued to work under the supervision of the officers of the I.O.C. So far as payment to the workmen are concerned, the witness stated that the management made arrangement with the contractor for payment of their wages upto 31st January, 1996 and thereafter the contractor made payment of basic pay only to the workman. He also stated that such payment was made till September, 1996 and thereafter the workers never received any payment. In cross-examination this witness stated that he was not aware whether M/s. S.N. Building workers is a party to the dispute, but he had not made any application to impled it. He stated that he has not filed any paper to show that these workers were working under I.O.C. and that the officers of I.O.C. supervised their work. He could not say which of the workman is working since which particular year. He had no document to show that there was relationship of employer and employee between the I.O.C. and these workmen. He admitted that these workers are not members of the present union. He, however, stated that they are members of the Joint Council of Workers Federation to which the present union is affiliated. He also stated that he had not filed any document to show that these workers are members of the above Federation. He could not say about the sanctioned posts against which the concerned workers are sought to be appointed or absorbed. He, however, denied that the claim of the workman for absorption has no basis.

9. The sole witness for the management in this case is MW-1, Sf. Gulam Mehboob. He was Manager Terminal at Budge Budge Terminal of IOC from July to September, 1996 and then from September, 1996 to June 1997 he was Location Incharge at Budge Budge. He stated that S.N. Building works happened to be the contractor for tanker hose handling. According to him this work was not of regular nature. He also stated that this work was not

being done by the regular workmen of I.O.C. He further stated that the number of tankers do not remain constant every month. He stated that the location was registered under the Contract Labour Abolition and Regulation Act and M/s. S.N. Building Works had licence for the purpose and he referred to Exts. M-1, M-1/1 and M-1/2 in this regard. With reference to Exts. M-2 and M-2/1 he stated that those are the contract papers in favour of M/s. S.N. Building Works. He also stated with reference to Ext. M-3 that the contract with M/s. S.N. Building Works was terminated and another contractor came in. He named the said contractor as M/s. Prakash Enterprise and stated Ext. M-4 is the contract with the said contractor. He further stated that there were 13 workers working under M/s. S.N. Building Works as per salary sheets (Ext. M-5). According to him the contract was a job contract and the number of workers was not specified in the work order. He further stated the workers of the contractor were not collecting their wages and therefore as principal employer I.O.C. had issued notices to them and he referred to Ext. M-6 and M-7 in the matter. The witness also stated that there was no sanctioned post available for the work being done by the contractor. He pointed out that the qualification for employment on the post held by the workmen concerned is Class-X pass. He also stated that they never produced any document regarding their qualification. He admitted that the concerned workmen are presently working under M/s. Prakash Traders. He stated that there is a recruitment rules in the I.O.C. and the appointments are made as per that rules. He also stated about the procedure for appointment as provided in the recruitment rules. The witness further stated that the procedure was not adopted in case of the concerned workmen. He further stated that the present staff strength of permanent workers has been reduced day by day. The reason for such reduction, according to the witness are mainly introduction of V.R.S. and automation. He further stated that there is no scope for recruitment of additional hands. He also stated that the claim of the concerned workmen in this dispute is not justified. Since this witness has not been cross-examined on behalf of the workmen, his evidence is actually unchallenged. In any event, I have also carefully considered the evidence of MW-1 and find no reason to disbelieve the same.

10. It is submitted on behalf of the management that the reference is not maintainable as the question referred for adjudication involves abolition of contract labour which is beyond the authority of this Tribunal. It is further submitted that it is evident from the evidence of WW-3 that the concerned workmen are not members of the union which espoused their cause and the union in the circumstance has got no locus standi or representative character. I find force in such submission.

11. Be that as it may, since there is evidence on record, both oral and documentary, I feel it prudent to pass as Award on merit and dispose of the matter.

12. Upon careful consideration of evidence as adduced by the parties, particularly the unrebutted oral evidence of MW-1 it appears that the work of connection and disconnection of hoses has always been done by contract labourers at Budge Budge Terminal of the Corporation and for this purpose firstly M/s. S.N. Building Works was appointed as contractor and thereafter M/s. Prakash Enterprise was entrusted with the said job. The Corporation has the requisite registration for engagement of contract labourers and the contractors have also obtained licence for the same, workman also admitted that they were engaged through contractor, it is nobody's case that the engagement of contractor's labourers in such job has been prohibited under the provisions of Contract Labour (Regulation and Abolition) Act, 1970. The point for consideration is whether in the circumstances the management of Indian Oil Corporation Ltd. be directed to give direct employment to the concerned workman.

13. In this view of the matter, the management has rightly cited the decisions of the Apex Court in the case of Vegoils Private Ltd. v. The Workmen (AIR 1972 SC 1942) wherein it is observed that the Industrial Tribunal has no jurisdiction to decide the question of abolishing contract labour. Management also cited the case of Steel Authority of India Ltd. & Ors. v. National Union of Water Front Workers & Ors. (AIR 2001 SC 3527) wherein it has been held by the Apex Court that neither Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour in any process, operation or other work in any establishment. Consequently the principal employer cannot be required to order absorption of the contract labour working in the concerned establishment. This case does not have any application to the present reference because the appropriate Government has not yet abolished the engagement of contract labour for the concerned job in the Corporation.

14. So, upon careful consideration of the facts and circumstances of the case as well as position of law in the matter, I find that the workman have miserably failed to substantiate their demand for direct employment under the management of Indian Oil Corporation. Thus, it is held that the demand of the Indian Oil Employees' Union for giving direct employment to Shri Dudmar Halder and 25 others by the management of Indian Oil Corporation is not justified. The reference is disposed of accordingly.

This is my Award.

Dated : 26th April, 2006

नई दिल्ली, 15 मई, 2006

का. आ. 2232.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम. न्यायालय, धनबाद II के पंचाट (संदर्भ संख्या 84/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-2006 को प्राप्त हुआ था।

[सं. एल-20012/177/1996-आईआर(सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2232.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 84/97) of the Central Govt. Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 11-5-2006.

[No. L-20012/177/1996-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. BISWAS, Presiding Officer.

In the matter of an Industrial Dispute under Section 10
(1) (d) of the I.D. Act, 1947

REFERENCE No. 84 OF 1997

PARTIES: Employers in relation to the management of
M/s. BCCL Koyala Bhawan and their workmen.

APPEARANCES:

On behalf of the workmen : Mr. D. Mukherjee,
Authorised
Representative.

On behalf of the employers : None

State : Jharkhand Industry : Coal.

Dhanbad, Dated the 25th April, 2006.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d)

of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their order No. L-20012/177/96-IR (C-I), dated the 14th August, 1997.

SCHEDEULE

“Whether the promotion of Smt. Ashoka Gupta superseding S/Shri P.K. Sengupta and R.P. Sinha, Sr. D.P.E. of EDP Section of Koyala Bhawan, M/s. BCCL is justified ? If not, to what relief are these workmen entitled ?”

2. Case of the concerned workmen according to Written Statement submitted by the sponsoring union on their behalf in brief is as follows:—

They submitted that the concerned workmen viz. P.K. Sengupta and R.P. Sinha have been working as permanent employees under the management and posted in EDP Section at Koyala Bhawan, BCCL Headquarters. They submitted that P.K. Sengupta joined duty as Grade-D worker on 27-10-76 while R.P. Sinha joined the same grade on 15-11-76. The concerned workman initially started working as Input and Output control Assistant Since 2-5-78 and continued as such till 28-3-79 as per office order issued by the management. They submitted that an office order was issued on 28-3-79 by the Dy. Finance Manager (A) with direction to the effect that no Punch Card Operator and Punch Card Verifier will be put on any other job save and except punching and verifying and accordingly all persons were reverted back since 28-3-77. The first provisional seniority list dt. 25/30-7-81 of Electronic Data Processing Department was published and as per the said seniority list the name of Shri P.K. Sengupta was recorded in Sl. No. 2 and of R.P. Sinha in Sl. No. 8 of the said seniority list in P.V.O. of Technical Grade-D. Final seniority list was published on 4/5-3-82 which also supported the provisional seniority list published earlier. They submitted that by office order dt. 16-7-82 all Technical Grade-D workers were recategorised as Technical Grade-C w.e.f. 1-4-80. The cadre scheme for Electronic Data Processing was finalised on 22-7-85 and a seniority list dt. 27/28-8-96 was published under the signature of Shri U. K. Jha wherein the name of the concerned workman P.K. Sengupta and R.P. Sinha came in Sl. Nos. 2 and 8 respectively. They submitted that by letter dt. 4/5-4-88 R. P. Sinha was promoted to Technical Grade-B under the signature of B.N. Jha. Shri P.K. Sengupta was also promoted in Grade-B but his designation was kept in abeyance by an order of the management.

They disclosed that Smt. Ashoka Gupta joined in Tech. Grade-E on 16-8-76 and her appointment was on compassionate ground as because she could not secure qualified marks in the selection test. Thereafter by office order dt. 4/6-7-1977 said Smt. Ashoka Gupta was promoted as Punch Verifier Operator in Tech. Grade-D w.e.f. 15-12-76 said Smt. Ashoka Gupta applied for the change

of her designation as DPA by application dt. 14-6-78. A letter was written in favour of said Smt. Ashoka Gupta by Shri S. Dasgupta, Joint General Secretary of RCMS Union dt. 2-7-79 for change her designation and accordingly Director (E) issued a letter for change of her designation.

They submitted that in the first provisional seniority list dt. 25/30-7-81 of Electronic Data Processing department name of Smt. Ashoka Gupta, P.V.O. was listed in Sl. No. 23 as Tech. Grade-D. Final seniority list dt. 4/5-9-82 also confirmed that provisional seniority list. They disclosed that by Office order dt. 16-7-82 all Tech. Grade-D workers were recategorised in Tech. Grade-C and accordingly Smt. Ashoka Gupta was recategorised in Grade-C with effect from 1-4-80 and her name in the seniority list remained in Sl. No. 23 as before. By office order dt. 27/28-8-86 designation of Smt. Ashoka Gupta was changed to Junior System Control Assistant Tech. Grade-C and for that neither any test was conducted nor any other persons were offered any opportunity. They alleged that said designation was changed with ill motive to facilitate promotion of Smt. Ashoka Gupta by superseding the claim of the senior concerned workman. They further submitted that by office order dt. 4-4-88 said Smt. Ashoka Gupta was promoted from Tech. Grade-C to Grade-B by changing her designation as Input and Output Assistant Control. By office order dt. 23-12-91 issued under the signature of T.P. Jha said Smt. Ashoka Gupta was given notional seniority wherein and whereby her promotion to Tech. Grade-B was made effective with effect from 1-4-80 and accordingly she was given the benefit of SLU of Tech. Grade-A w.e.f. 1-7-90 and by order dt. 13-8-92 she was promoted to Technical Grade-A. They alleged that Smt. Ashoka Gupta was also allowed to appear for her promotion in non-executive cadre in the year 1996.

They submitted that by office order No. BCCL/PA/5/Prem/MTAPE-88 : 4379-88 the concerned workman Shri P.K. Sengupta was promoted to senior D.D.E. Operator in Tech. Grade-B w.e.f. 4/5-1988. Again by office order dt. 12/15-4-1995 effect of promotion to Tech. Grade-B was given with effect from 1-4-80 and benefit of SLU in Tech. Gr. A was given to 1-7-90 and by order they were promoted to Technical Grade-A w.e.f. 27-10-95. As a result, Smt. Ashoka Gupta taking the opportunity of her illegal seniority appeared for her promotion to the post of E2.

They alleged that it is crystal clear that Smt. Ashoka Gupta was junior to the concerned workmen on the ground that the concerned workmen P.K. Sengupta and R.P. Sinha were appointed in Technical Grade-D with effect from 27-10-76 and 15-11-76 respectively whereas Smt. Ashoka Gupta was appointed on 15-12-76 in Grade-E. They alleged that Smt. Gupta was too junior to the concerned workmen but she was given undue advantage and favour by the management by changing her designation only to facilitate her promotion to the next higher grade by superseding

the claim of the concerned workmen and she was given promotion not only superseding the claim of the concerned workmen but also without facing D.P.C. They specifically alleged that undue favouritism was shown to Smt. Gupta for her promotion to higher post superseding the genuine claim of the concerned workmen in a very ugly manner and violating all norms. Accordingly they raised an industrial dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication. The sponsoring union accordingly submitted prayer to pass Award directing the management to promote the concerned workmen to the post of Grade-C, B and A and E-2 atleast at par with Smt. Ashoka Gupta with all arrears of wages and consequential benefits or alternatively the promotion of Smt. Ashoka Gupta should be cancelled.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the Written Statement submitted on behalf of the concerned workmen. They submitted that for carrying out the job successfully the BCCL introduced a most sophisticated and highly technical and skilful department called the Electronic Data Processing Department (EDP) in early seventies. The said EDP department has three wings considering its nature of jobs viz. Machine Operation Wing, Punch Verifying Wing, and the System Wing. The entry point in EDP section at the initial stage was both in Tech. Grade-D and Tech. Grade-E. Smt. Ashoka Gupta was appointed in Technical Grade-E on 16-8-76 and placed as Input and Output Assistant in the system wing. Shri P.K. Sengupta and R.P. Sinha got their appointment in E.D.P. Department on 27-10-76 and 19-11-76 as Junior Punch Verifying Operator of the Punch Verifying Wing. On 15-12-76 when the management was taking decision to abolish the Technical Grade 'E' in the EDP department the case of Smt. Ashoka Gupta was examined a fresh on merit and on the appreciation of her performance in the system wing as Input and Output Assistant she was offered Technical Grade-D as Technical Grade-E was abolished. With the placement of Ashoka Gupta in Technical Grade-D after abolition of Grade-E her employment category became at par with the employment category of EDP department from 15-12-76. They submitted that even after coming over to Tech. Grade-D like the two concerned workmen P. K. Sengupta and R.P. Sinha, Ashoka Gupta's placement continued in the System Wing of the E.D.P. and she was designated as E.D. Assistant while the concerned workmen remained as Punch Verifying Operator in the Punch Verifying Wing of the EDP department. They disclosed that subsequently as per policy of the management all the working employees of Tech. Grade-D were considered for promotion and placement in Technical Grade-C as per order dt.16-7-82 and consequent to the said order Smt. Ashoka Gupta as well as the concerned workmen were promoted to

Technical Grade-C w.e.f. 1-4-80. They disclosed that Smt. Ashoka Gupta right from 27/28-8-86 became exclusively associated with the System wing of the EDP department following the management's policy based on various decisions and awards of Industrial Tribunals while the concerned two workmen P.K. Sengupta and R.P. Sinha remained in Punch Verifying operation wing of the EDP department which are quite separate and distinct from each other as per cadre scheme. As Smt. Ashoka Gupta was exclusively associated with the E.D.P. Department as Jr. System Asstt, her promotion as per cadre scheme was quite different and there cannot be comparison between her promotion and that of the two concerned workmen. As a matter of fact, the actual growth of System wing and the Punch Verifying wing is quite different. Accordingly subsequent promotion of Smt. Ashoka Gupta vide office order dt. 4-7-88 in Tech. Grade-D was justifiably made as per policy of the management since she was already designated and functioning as I/O Control Asstt. as per cadre scheme of the EDP Department and her promotion was in no way detrimental to the promotion of the concerned workmen nor the same intervened in any way with that of theirs. They submitted further that as per decision and policy of the management based on the Industrial Tribunal's Awards Smt. Ashoka Gupta and others were given notional seniority with effect from 1-4-80 in Tech. Grade 'B' with the benefit of SLU in Tech. Gr. A w.e.f. 1-7-90 which was in no way detrimental to the interest and promotions of the concerned workmen which are governed by the provisions of cadre scheme of the Punch Verifying Operation wing of the EDP Department and virtually have nothing to do with the cadre scheme of System Wing of the EDP Department with which Smt. Ashoka Gupta was governed. Smt. Ashoka Gupta was again promoted to Technical Grade-A on 13-8-92 as per the decision and policy of the management appreciating the tedious and tireless job of the System wing, she had to undertake, the promotions of the concerned two workmen does not stand superseded by any account.

They further submitted that as per policy of the management employees who have put more than 3 years of service in Technical Grade-A in non-executive cadre having requisite qualifications are eligible for appearance in the test for promotion from Non-executive to executive cadre. Accordingly, Smt. Ashoka Gupta who had already put in three years of service in the highest grade in Technical Grade-A having requisite qualification appeared in the test for promotion from non-executive to executive cadre. She qualified in the Written test and also appeared in the oral interview and accordingly there was no anomaly against the two concerned workmen since the latter are the employees of two different wing than the wing of the former. Smt. Ashoka Gupta was not promoted to the Executive-2 cadre nor any discrimination was done in her

promotion by the management. They submitted that it was quite unfortunate that the two concerned workmen were misguided by different cadre scheme of EDP department and under the influence of that misguidance they raised an industrial dispute which was absolutely based on unjustified and improper demand. Accordingly they submitted that the concerned workmen are not entitled to get any benefit and submitted prayer to reject their claim.

4. POINTS TO BE DECIDED

“Whether the promotion of Smt. Ashoka Gupta superseding S/Shri P.K. Sengupta and R.P. Sinha, Sr. DPE of EDP Section of Koyala Bhawan, M/s. BCCL is Justified? If not, to what relief are these workmen entitled?”

5. FINDING WITH REASONS

It transpires from the record that the sponsoring union with a view to substantiate their claim examined Sri P.K. Sengupta as one of the concerned workman being WW-1 management also in support of their claim examined one witness as MW-1. Considering the evidence of WW-1 it transpires that he got his appointment as P.V.O. at Headquarters of the management on 27-10-76 Shri R.P. Sinha another workmen got his appointment on 15-11-76 in the same capacity. This witness disclosed that on 25/30.7-81 management published a provisional seniority list and as per the said provisional seniority list his name was recorded in Sl. No.2 while the name of R.P. Sinha in Sl. No. 8. This witness disclosed that workers of Grade-B were recategorised by order dt. 16-7-82 and after recategorisation they were placed in Tech. Grade-C. This witness disclosed that w.e.f. 22-7-85 they came in the cadre scheme of E.D.P. He disclosed that P.V.O. and E.D.P. falls in the same cadre i.e. Technical Gr. C. In the year 1986, this witness disclosed, that management published a seniority list of Techn. Grade-C, provisionally. As per the provisional seniority list his name appeared in Sl. No. 2 While the name of R.P. Sinha appeared in Sl. No.8. final list of Tech. Grade-C was published on 3-2-87 and their seniority remained the same. This witness further disclosed that by order dt. 4/5-4-88 they got promotion in Technical Grade-B. They disclosed that Smt. Ashoka Gupta on the contrary was appointed in Technical Grade-E on 16-8-76 on compassionate ground. She got her promotion as P.V.O. in Techn. Gr. D by order dt. 4/5-7-1977 which came into operation from 15-12-76. She got her promotion in Technical Grade-C on 16-7-1982 w.e.f. 1-4-80. Thereafter she got her promotion in Technical Grade-B on 5-4-88 without facing D.P.C. This witness disclosed that on the contrary they had to face D.P.C. before they got their promotion in Tech. Grade-B. This witness alleged that in the year 1986 the designation of Smt. Ashoka Gupta was changed as Junior System Assistant at the intervention of Shri S. Dasgupta, Joint General Secretary,

RCMS Union. She got her promotion in Tech. Grade-A w.e.f. 13-8-92 without facing D.P.C. and thereafter she got her promotion in Executive cadre on 7-12-98 from Tech. Grade-A. This witness alleged that they did not get scope to appear before the interview as the management did not give any promotion in Technical Grade-A. They alleged that management illegally and arbitrarily superseding them in Tech. Grade-A promoted her in Executive Cadre-II. MW-1 on the contrary during his evidence disclosed that Smt. Ashoka Gupta was promoted in Technical Grade-A in the year 1992. During cross-examination this witness admitted that in case of fresh appointment irrespective of posts it is compulsory on the part of the concerned workmen to remain on probation for one year. This witness failed to disclose if Smt. Ashoka Gupta got her appointment in the year 1976 as Junior P.V.O in Grade-D and was on probation for one year. This witness further admitted that said Ashoka Gupta was declared unsuitable for the post of P.V.O by the interview Board (Ext. W-5). He further admitted that before completion of her probationary period Ashoka Gupta was promoted to Grade-D w.e.f. 15-12-76 and in Grade-C as P.V.O. w.e.f. 1-4-80 by office order dt. 16-7-82. Therefore, considering evidence of MW-1, it is clear that Smt. Ashoka Gupta got her appointment as Jr. P.V.O. in Grade-E in the year 1976 on probation. This witness admitted that said Ashoka Gupta though declared unsuitable in the post of P.V.O by the interview board got her promotion in Grade-D w.e.f. 15-12-76. It is admitted fact that Smt. Ashoka Gupta thereafter got her promotion in Grade-C as P.V.O. w.e.f. 1-4-80. The concerned workmen also got their promotion as P.V.O. On the same date. Accordingly in the seniority list published by the management the name of P.K. Sengupta appeared in Sl. No. 2 while the name of R.P. Sinha appeared in Sl. No. 8. On the contrary name of Ashoka Gupta appeared in Sl. No. 22. Office orders marked as Ext. W-12 and W-13 supports the claim of the concerned workmen. Therefore, it is clear that as per seniority list P.K. Sengupta and R.P. Sinha were senior to Ashoka Gupta. It is the specific allegation of the concerned workman that under influence of the leader of RCMS Union S. Dasgupta cadre of Smt. Ashoka Gupta was changed and if the documents marked as Ext. W-9 and W-10 are taken into consideration it will expose clearly that S. Dasgupta, the leader of RCMS was very much interested in the matter of change of designation of Smt. Ashoka Gupta. From the documents marked as Ext. W-11 it transpires that designation of Ashoka Gupta was changed by the management practically under influence of Shri S. Dasgupta, Joint General Secretary of RCMS. Therefore, it is clear that interference of the union was very much active in the matter of change of designation of Smt. Ashoka Gupta. MW-1 during his cross-examination admitted that a workman should face D.P.C. if he likes to switch over to separate cadre from the existing cadre. Here in the instant of Smt. Ashoka Gupta no such DPC was held while management switched over

her to different cadre from the existing cadre as per the order marked as Ext. W-11. This I should say was a gross illegality committed by the management under influence of the trade union leader Mr. S. Dasgupta. It is seen that by order dt. 4/5-4-88 the concerned workmen i.e. P. K. Sengupta and R. P. Sinha got their promotion in Technical Grade-B. Simultaneously, Smt. Ashoka Gupta also got her promotion in Tech. Grade-B on 5-4-88. It has been specifically alleged by the sponsoring union that promotion of Smt. Ashoka Gupta in Tech. Grade-B was given by the management without recommendation of the D.P.C. In course of hearing management denied this fact but failed to produce any paper to show that like the concerned workmen P.K. Sengupta and R.P. Sinha said Ashoka Gupta appeared before the D.P.C. and her name was recommended by the D.P.C. for his promotion in Tech. Gr. B. However, it is seen that up to promotion of Grade-B the position of the concerned workmen and the position of Ashoka Gupta remained the same though the concerned workmen P.K. Sengupta and R.P. Sinha were declared senior by the management as per seniority list. It is seen that thereafter the scenario relating to promotion of the concerned workmen and Smt. Ashoka Gupta was completely changed. It is seen that management promoted Ashoka Gupta in Technical Grade-A w.e.f. 13-8-92 though she was junior to Mr. P.K. Sengupta and R.P. Sinha as per the seniority list. The specific claim of the sponsoring union is that management illegally and arbitrarily and without holding D.P.C. issued promotional order in favour of Smt. Ashoka Gupta w.e.f. 30-8-92. They alleged that management ignoring the promotion of the concerned workmen in Tech. Gr. A issued an order of SLU dt. 15-4-95 is Tech. Grade-A in their favour which came into effect from 1-7-90. It has been specifically submitted by the sponsoring union that such arbitrary decision of the management seriously prejudiced the service interest of the concerned workmen and consequent to which while Smt. Ashoka Gupta got her promotion in Executive Cadre from Tech. Gr. A they were deprived of getting privilege of the same and it was so done absolutely on taking arbitrary decision by the management. It is seen that P.K. Sengupta during pendency of hearing of this reference case preferred a Writ Petition before the Hon'ble High Court, Jharkhand, Ranchi which was registered as C.W.J.C. No. 2096/99. In the said decision his Lordship of the Hon'ble High Court, Jharkhand, Ranchi upholding the claim of the concerned workman P.K. Sengupta directed the management to consider whether the petitioner shall be entitled to the consequential benefit for the same. After passing the said order the concerned workman Mr. P.K. Sengupta submitted application with prayer for withdrawal his name from this reference case on the ground stated therein. As the name of the said concerned workman appears in the reference sent by the Ministry without taking appropriate steps through Ministry there was no scope to uphold such prayer of the said workman. However,

the fact which remains is that Hon'ble Court allowing the Writ Petition as referred to above considered his seniority and accordingly issued direction to that effect. It is seen that R.P. Sinha, another concerned workman was also senior to Smt. Ashoka Gupta. Accordingly his claim must be on the same footing with P.K. Sengupta and he is also equally entitled to get same relief considering the observation made by Hon'ble Court in disposing of the Writ petition submitted by P.K. Sengupta. Accordingly I hold that promotion of Smt. Ashoka Gupta superseding the concerned workman was not justified. In the result, the following Award is rendered:—

“The promotion of Smt. Ashoka Gupta superseding S/Shri P.K. Sengupta and R.P. Sinha, Sr. D.P.E of EDP Section of Koyala Bhawan M/s. BCCL is not justified.

It is hereby observed that the concerned workmen shall be deemed to be seniors to Smt. Ashoka Gupta since the date of their entry in service.

Management accordingly is directed to give consequential benefits to them considering their seniority in relation to Smt. Ashoka Gupta and this Award will be implemented within three months from the date of its publication in the Gazette of India.”

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2233.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. का. को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/प्रम न्यायालय धनबाद-II के पंचाट (संदर्भ संख्या 269/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-06 को प्राप्त हुआ था।

[सं. एल-20012/302/2001-आईआर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2233.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 269/2001) of the Cent. Government. Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 11-5-06.

[No. L-20012/302/2001-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. Biswas, Presiding Officer.

In the matter of an Industrial Dispute under
Section 10 (1) (d) of the I.D. Act, 1947.

Reference No. 269 of 2001

PARTIES: Employers in relation to the management of Amlabad Colliery of M/s. BCCL and their workmen.

APPEARANCES:

On behalf of the workmen : Mr. B. N. Singh,
Ld. Advocate.
Authorised Representative

On behalf of the employers : Mr. U.N. Lal, Ld. Advocate,
State : Jharkhand
Industry : Coal.

Dhanbad, Dated, the 3rd April, 2006

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/302/2001-IR (C-1), dated, 27-9-2001.

SCHEDULE

“Whether the action of the management of BCCL Bhowra Area in dismissing Sri Dilip Kumar Rajak is justified? If not, to what relief is the workmen entitled?”.

2. The case of the concerned workmen according to written statement submitted by the sponsoring union on his behalf in brief is as follows:—

The sponsoring union submitted that the concerned workman was an employee of Amlabad Colliery. They submitted that owing to mental disorder it was not possible for him to perform his duties and for which on the ground of his treatment he remained absent. They disclosed that thereafter he was placed under treatment of Dr. Tusher Kanti Ganguly, Neuro-psychiatrist Ranchi Mansik Arogyasala, Kanke. After his recovery he came to his place of work with a view to resume his duty and management allowed him to resume his duty w.e.f. 26-11-1998 but unfortunately they issued a charge sheet

No. BCCL/99/AMBD/6254-55 dt. 20/22-3-1999 for committing misconduct on the ground of his unauthorised absent from duty w.e.f. 26-8-1998.

They submitted that thereafter again the concerned workman fell ill owing to his mental disorder and was taken Mansik Arogyasala, Kanke, Ranchi for his treatment and after treatment he was declared fit by the Doctor for performing his duties w.e.f. 18-8-1999. Accordingly, thereafter with fit certificate when he came to his place of work with the intention to resume his duty management did not allow him to join his duty subject to approval of the competent authority. They submitted that he was on leave duly sanctioned by the management for his treatment but knowing fully well of this fact they deliberately issued charge sheet to him. They submitted that as the concerned workman is an illiterate person he could not submitted his reply to the charge sheet. However, Management initiated enquiry against him and thereafter dismissed him from service illegally, arbitrarily and violating the principle of natural justice.

After passing the order of dismissal he submitted representation to the management with a prayer for his reinstatement but to no effect and for which he raised an Industrial Dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication.

The sponsoring union accordingly submitted prayer to pass award directing the management to reinstate the concerned workman to his service with full back wages recalling that order of dismissal.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workman.

Management submitted that the concerned workman was Badli Miner Loader posted at Amlabad Colliery. They alleged that he was habitual absentee and in that connection several charge Sheets/warning letters were issued to him. They submitted that again for his unauthorised absence from duty w.e.f. 26-8-1998 a charge sheet was issued to him under clause 26:1 of the Certified Standing Order. After receipt of the said charge sheet concerned workman submitted his reply but as the said reply was not satisfactory a domestic enquiry was initiated against him. During enquiry it was exposed that in the year 1995 he did not work for a single day while in the years 1996 and 1997 he put his attendance for 13 days and 11 days respectively. They submitted that during hearing of the enquiry proceedings the Enquiry Officer gave him full opportunity to defend his case and after completion of the said enquiry the said Enquiry Officer submitted his report holding the concerned

workman guilty to the charge brough against him. However, before taking disciplinary action in view of enquiry report submitted by the Enquiry Officer a second show cause notice was issued to him vide letter No. 13272 dt. 6/11-11-1999.

They submitted that on careful consideration of the enquiry report and considering all other aspects the Diciplinary Authority dismissed the concerned workman from his service vide letter No. BCCL/AMBD/99/PS/13533-42 dt. 18/20-11-1999.

They categorically denied that the Disciplinary Authority neither committed any illegality nor took any arbitrary decision violating the principle of natural justice in dismissing the concerned workman from his service and for which they submitted prayer to pass award rejecting the claim of the sponsoring union.

4. POINTS TO BE DECIDED

“Whether the action of the management of BCCL Bhowra Area in dismissing Sri Dilip Kumar Rajak is justified? If not, to what relief are these workman entitled?”.

5. FINDING WITH REASONS

It transpires from the record that before taking up hearing of this case on merit it was taken into consideration if domestic enquiry held against the concerned workman was fair, proper and in accordance with the principle of natural justice. The said issue on preliminary point was disposed of vide Order No. 16 dt. 12-7-2005 in favour of the management.

Now the point for consideration is if the management have been able to substantiate the charge brought against the concerned workman and if so whether there is any scope to review the order of punishment inflicted upon him in view of provision laid down in Sec. 11-A of the Industrial Dispute Act.

It is admitted fact that concerned workman was a Badli Miner/Loader at Amlabad Colliery. Considering relevant papers on record it transpires that for committing misconduct on the ground of absentism management issued a charge sheet to him under clause 26:1 of the Certified Standing Orders applicable to the workman of the Company. Concerned workman on receipts of the said charge sheet submitted his reply but as the reply given by him was not satisfactory the Disciplinary Authority initiated domestic enquiry against him. The charge sheet issued to the concerned workman and its reply given by him during hearing were marked as Exht. M-3 & M-4 respectively. From the charge sheet it transpires that the concerned workman started absenting himself from duty

without giving any intimation or taking prior permission from the management on 26-8-1998. The charge sheet was issued on 20-3-1999. Therefore, according to management he remained himself absent from duty without giving any intimation or taking prior permission continuously for more than six months.

Contention of the sponsoring union is that owing to mental disorder the concerned workman was unable to perform his duty and was placed under treatment of Dr. Tushar Kanti Ganguly, Neuro Psychiatrist, Ranchi Manshik Arogyashala, Kanke. After treatment he was declared fit and was allowed to resume his duty. Accordingly, he came to his place of work with fit certificate and management allowed him to join his duty on 26-11-1998 but as his mental disorder developed again he was placed under treatment at Manshik Arogyashala, Kanke, Ranchi and after treatment he was declared fit by the Medical Officer of that hospital on 18-8-1999.

On the contrary contention of the management is that the concerned workman grew up the habit of remaining himself absent from duty very often and for which on different occasions charge sheets/warning letters were issued to him but to no effect. They alleged as part of such habit he started remaining himself absent from duty without taking any permission or giving any intimation to the management w.e.f. 26-8-1998 and as he remained absent till 20-3-1999 a charge sheet was issued to him. Therefore it is to be looked into if the concerned workman without giving any intimation or taking prior permission of the management remained absent or not. It is the contention of the sponsoring union that the concerned workman submitted necessary medical papers in support of his claim to the management. Medical Certificate (Copy) issued by Dr. Tushar Kanti Ganguly, Neuro Psychiatrist (Exht. M-5/4) shows that the concerned workman was under his treatment from 2-12-1998. It is admitted fact that concerned workman started remaining himself absent from duty w.e.f. 26-8-1998. It is his claim that on 26-11-1998 he joined his duty on the basis of Certificate of fitness issued by the Doctor. From the record I have failed to find out any such medical certificate in support of his claim that owing to mental disorder he remained absent and placed under treatment since 26-8-1998. The sponsoring union has failed to produce a single scrap of paper to show that he intimated the reason of his absence to the management. He has also failed to produce any paper to show that he joined his duty on 26-11-1998. Therefore, it is clear that remained absent unauthorisedly without giving any intimation to the management. Accordingly if the provision as laid down under clause 26 : 1 : 1 of the Certified Standing order is taken into consideration it will expose clearly that management was absolutely justified in issuing charge sheet to the concerned workman on the ground mentioned above. I am satisfied that in course of hearing management

have been able to substantiate the charge brought against the concerned workman.

It transpires from the record that Disciplinary Authority after considering enquiry report submitted by the Enquiry Officer, considering all material aspects and also after getting approval from competent authority dismissed the concerned workman from his service. Letter of dismissal issued to the concerned workman during hearing was marked as Exht. M-8.

Now the point for consideration is if there is any cogent ground to review the order of dismissal issued against the concerned workman considering the provision as laid down under Section 11-A of the Industrial Disputes Act.

Sec. 11-A of the Industrial Disputes Act speaks as follows:—

“Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require.”

According to this provision it is to be looked into if the order of dismissal issued against the concerned workman was justified and proportionate to the misconduct committed by the concerned workman. Considering the materials on record there is no dispute to hold that the concerned workman started absenting from duty w.e.f. 26-8-1998 without giving any intimation or without taking prior permission from the authority till issuance of charge sheet dt. 20-3-99. It was the contention of the sponsoring union that as the concerned workman was suffering from mental disorder during the said period he remained under treatment of Dr. Tushar Kanti Ganguly, Neuro Psychiatrist, Ranchi Manshik Arogyashala and submitted medical certificate to that effect. The medical papers (copies) marked as Exht. M-5/3 and Exht. M-5/4 shows clearly that he was under treatment of Dr. Tushar Kanti Ganguly from 1-12-98 to 18-8-99 and not from 26-8-1998. During hearing the sponsoring union has failed to produce any such medical paper to show that the concerned workman was under any treatment from 26-8-1998 to 30-11-1998. It has been disclosed by the sponsoring union that on 26-11-1998 concerned workman joined to his duty but as he fell ill, again he remained absent and was placed

under treatment. No cogent paper on the part of the sponsoring union is forth coming to show that he joined to his work on 26-11-1998. As such there is no scope at all to accept such contention of the sponsoring union.

It is further allegation of the management that the concerned was habitual absentee and in support of that claim. They relied on his work chart which shows that during 1995 he did not work for a single day while in the year 1996 and 1997 he worked for 13 days and 11 days respectively. The work chart during hearing was marked as Exh. M-7 which corroborates the submission of the management.

It has been submitted by the management that for unauthorised absence on several occasions charge sheets/warning letters were issued to the concerned workman. However, inspite of making such claims they have failed to produce any such paper. If the claim of the management is taken into consideration there is scope to say that attendance of the concerned workman to his duty during 1995, 1996 and 1997 were absolutely poor and no evidence is forthcoming which step management took against him on that ground.

Clause 27(i) of the Certified Standing order speaks that in case of misconduct where the workman deserves minor penalties 48 hours time is given to him to submit his reply to the charge sheet issued to him. However in case of infliction of major penalties 7 days time is given under clause 27(2) of the Certified Standing Order. Clause 29(i) and 29(i)(ii) of the Certified Standing order clarifies which are minor penalties and which are major penalties. Dismissal of service comes under major punishment.

It transpires that Disciplinary Authority issuing charge sheet to the concerned workman allowed 48 hours time to submit his reply. Therefore intention of the management was to inflict minor penalty if the charge of misconduct proved against him. Here the Disciplinary Authority though issued notice under clause 27(i), on proof of misconduct instead of inflicting minor penalty as provided under clause 29(i) imposed major penalty under clause 29(i)(ii) of Certified Standing order which was not only illegal but also arbitrary and violated the principle of natural justice.

I therefore, hold that order of dismissal from service issued against the concerned workman by the Disciplinary Authority was not only unjustified but also not proportionate for which it violated the principle of natural justice. Accordingly the order of dismissal from is liable to be set aside.

In the result the following award is rendered :

“That action of the management of BCCL, Bhowra Area in dismissing Sri Dilip Kumar Rajak was not justified.

Impugned order of dismissal issued by the management dt. 18/20-11-1999 is hereby set aside.

Management is directed to reinstate the concerned workman to his service within three months from the date of publication of the award in the Gazette of India. Concerned workman however, will not be entitled to get any back wages and consequential relief.

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का.आ. 2234.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद II के पंचाट (संदर्भ संख्या 35/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-2006 को प्राप्त हुआ था।

[सं. एल-20012/763/1997-आईआर(सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2234.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 35/99) of the Central Government Industrial Tribunal/Labour Court, Dhanbad II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 11-5-2006.

[No. L-20012/763/1997-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10
(1) (d) of the I.D. Act, 1947.

REFERENCE NO. 35 of 1999

PARTIES : Employers in relation to the management of BCCL and their workmen.

APPEARANCES:

On behalf of the Mr. R. K. Prasad,
workman : President, Bihar Shramik Sangh.

On behalf of the employers : Mr. H. Nath,
Advocate.

State : Jharkhand Industry : Coal.

Dhanbad, the 6th April, 2006.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/763/97-IR (C-I), dated, the 18th January, 1999.

SCHEDULE

“Whether the action of the management of Sendra Bansjora Colliery of M/s. BCCL in dismissing Sh. Bali Bhuria, M/Loader from the services of the company w.e.f. 8/9-9-94 (only for his unauthorised absence from duty from 16-10-91) is legal and justified ? If not, to what relief the concerned workman is entitled ?”

2. The case of the concerned workman according to Written Statement submitted by the sponsoring union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman was a permanent employee of Sendra Bansjora Colliery. They alleged that on the allegation of committing misconduct management issued a chargesheet vide No. SB/PD/91/19/4929 dt. 10-10-1992 upon the concerned workman. After receipt of the said chargesheet he also submitted his reply denying the charges brought against him but without considering his reply the Disciplinary Authority by appointing an Enquiry Officer initiated domestic enquiry against him. They alleged that the Enquiry Officer without making the enquiry fairly and properly submitted his report holding him guilty to the charge brought against him and based on that report the Disciplinary Authority dismissed him from his service illegally, arbitrarily and violating the principle of natural justice for which he compelled to raise industrial dispute before the ALC(C) for conciliation which ultimately resulted reference to this Tribunal for adjudication.

The sponsoring union accordingly submitted prayer to pass award directing the management to reinstate the concerned workman to his service from the date of his dismissal with full back wages setting aside that order of dismissal.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the Written Statement submitted on behalf of the concerned workman.

They submitted that for committing misconduct on the ground of his unauthorised absence from duty w.e.f. 16-10-1991 a chargesheet was issued to him dt. 12-10-1992. They further submitted that as the reply given by him was not satisfactory the Disciplinary Authority appointing an Enquiry Officer initiated domestic enquiry against him. They disclosed that in course of hearing of the said proceeding the concerned workman not only remained present but also full opportunity was given to him to defend his case. After completing hearing of the said proceeding the Enquiry Officer submitted his report holding the concerned workman guilty to the charge. The Disciplinary Authority thereafter considering the said report and also considering all aspects dismissed him from service. They submitted that the Disciplinary Authority neither committed any illegality nor took any arbitrary decision in dismissing the concerned workman from his service and accordingly they submitted prayer to pass award rejecting the claim of the concerned workman.

4. POINTS TO BE DECIDED

“Whether the action of the management of Sendra Bansjora Colliery of M/s. BCCL in dismissing Sh. Bali Bhuria, M/Loader from the services of the company w.e.f. 8/9-9-1994 (only for his unauthorised absence from duty from 16-10-1991) is legal and justified ? If not, to what relief the concerned workman is entitled ?”

5. FINDING WITH REASONS

It transpires from the record that before taking up hearing of this case on merit it was taken into consideration if domestic enquiry held against the concerned workman was fair, proper and in accordance with the principle of natural justice. The said issue on preliminary point was disposed of vide Order No. 19 dt. 23-9-2005 in favour of the management.

Now the point for consideration is if the management have been able to substantiate the charge brought against the concerned workman and if so whether the said order of dismissal deserves to be reviewed as per provision of Section 11A of the I.D. Act, 1947.

It is admitted fact that the concerned workman was an employee of Sendra Bansjora Colliery. For committing misconduct on the ground of his unauthorised absence from duty management issued a chargesheet to him dt. 10-10-1992. After receipt of the said chargesheet he submitted his reply. The copy of Chargesheet issued to

the concerned workman and its reply given by him in course of hearing were marked as Ext. M-1 and M-2 respectively. It transpires from the chargesheet that he started remaining himself absent from duty without giving any intimation or taking prior permission from the management from 16-10-1991 and continuously remained absent till 10-10-1992 i.e. the date of issuance of chargesheet. Concerned workman in his reply disclosed that owing to death of his father he failed to attend to his duty. In his reply he did not mention the date, month and year when his father died. The reply given by him accordingly appears to be vague. It is seen that during hearing of the enquiry proceeding concerned workman not only remained present but also full opportunity was given to him to defend his case. Inspite of getting opportunity he has failed to satisfy the Enquiry Officer what was the actual reason to remain himself absent from duty unauthorisedly for about one year just taking the plea of his father's death. As such reply given by him appears to be not believable at all.

On the contrary it has been established in absence of sufficient ground that his unauthorised absence was absolutely wilful and for which management was absolutely justified in issuing chargesheet to the concerned workman. Considering all materials on record I find no dispute to hold that management have been able to substantiate the charge brought against him.

It is seen considering enquiry report and also considering all materials on record that the Disciplinary Authority dismissed the concerned workman from his service. The order of dismissal during hearing was marked as Ext. M-7.

Now the point for consideration is if the order of dismissal issued against the concerned workman was justified and proportionate to the misconduct committed by him. Section 11A of the I.D. Act, 1947 speaks as follows:—

“Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require.”

According to this provision it is to be looked into if the order of dismissal issued against the concerned

workman was justified and proportionate to the misconduct committed by him considering the materials on record there is no dispute to hold that the concerned workman started absenting from duty w.e.f. 16-10-1991 without giving any intimation or without taking prior permission from the authority till issuance of chargesheet dt. 12-10-1992. The cause of absence assigned by the concerned workman was due to death of his father. Definitely death of a beloved in the family specially father invites some mental impact on person.

Clause 27(i) of the Certified Standing Order speaks that in case of misconduct where the workman deserves minor penalties 48 hours time is given to submit his reply to the chargesheet issued to him. However, in case of infliction of major penalties 7 days time is given under clause 27(2) of the Certified Standing Order. Clause 29(i) and 29(i)(ii) of the Certified Standing Order clarified which are minor penalties and which are major penalties. Dismissal of service comes under major punishment.

It transpires that Disciplinary Authority issuing chargesheet to the concerned workman allowed 48 hours time to submit his reply. Therefore, intention of the management was to inflict minor penalty if the charge of misconduct proved against him. Here the Disciplinary Authority though issued notice under clause 27(i), on proof of misconduct instead of inflicting minor penalty as provided under clause 29(i) imposed major penalty under clause 29(i)(ii) of Certified Standing Order which was not only illegal but also arbitrary and violated the principle of natural justice.

I, therefore, hold that order of dismissal from service issued against the concerned workman by the Disciplinary Authority was not only unjustified but also not proportionate and for which it violated the principle of natural justice. Accordingly the order of dismissal from service is liable to be set aside.

In the result the following Award is rendered:—

“The action of the management of Sendra Bansjora Colliery of M/s. BCCL in dismissing Bali Bhuria, M/Loader from the services of the company w.e.f. 8/9-9-94 (only for his unauthorised absence from duty from 16-10-1991) was not legal and justified.

Accordingly impugned order of dismissal issued by the management against the concerned workman named above is hereby set aside.

Management is directed to reinstate the concerned workman Sh. Bali Bhuria to his service within three months from the date of publication of the award in the Gazette of India. Concerned workman, however, will not be entitled to get any back wages and consequential relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2235.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि., के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक (अधिकरण/प्रम न्यायालय) धनबाद-II के पंचाट (संदर्भ संख्या 132/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-2006 को प्राप्त हुआ था।

[सं. एल-20012/298/1995-आईआर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2235.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 132/96) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 11-5-2006.

[No. L-20012/298/1995-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT

Shri B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1) (d) of the I.D. Act, 1947

REFERENCE No. 132 of 1996

PARTIES : Employers in relation to the management of Jealgora Colliery of M/s. BCCL and their workmen.

APPEARANCES :

On behalf of the workman : None

On behalf of the employers : Mr. D. K. Verma,
Advocate

State : Jharkhand Industry : Coal.

Dhanbad, the 19th April, 2006

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/298/95-IR (Coal-I), dated, the 1st November, 1996.

SCHEDULE

“Whether the claim by the union that Sh. Shyampado Sarkar was continuously engaged for last 6 years as General Mazdoor by management through contractors is justified? If so, whether Shri Shyampado Sarkar is eligible for regularisation by the management? If so, to what relief is Sh. Sarkar entitled?”

2. The case of the concerned workman according to Written Statement submitted by the sponsoring union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman was engaged by the management at D.G. Plant at Jealgora Colliery in the year 1991 to perform certain permanent nature of jobs under their direct control and Supervision. It was the management who used to supply implements for execution of the said job. They submitted that again such job management used to pay him @ Rs. 20/- per day as his wages with utter violation of the provision of NCWA. Accordingly the concerned workman submitted representations to the management on several occasions for his regularisation as Cat. I Mazdoor and also to pay him wages as per NCWA but management instead of regularising him in that capacity stopped him from work illegally, arbitrarily and violating the principle of natural justice. Accordingly the sponsoring union raised industrial dispute for conciliation before the ALC(C), Dhandad which ultimately resulted reference to this Tribunal for adjudication. The sponsoring union accordingly submitted prayer to pass Award directing the management to regularise the concerned workman as Cat. I Mazdoor with retrospective effect and also with full back wages.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the Written Statement submitted on behalf of the concerned workman. They submitted that the controlling officer of the diesel generating plant at Jealgora engaged the concerned workman, a contractor worker on the job of painting structures in the plants and for cutting grass in the surroundings and for removal of wild vegetation growth with the idea of making the surroundings beautiful and comfortable. He was engaged on such job on contract basis intermittently during the year 1990-1991 only.

Accordingly they specifically denied the fact that the concerned workman worked under the management continuously for six years. They submitted that the concerned workman was neither selected nor recruited as per recruitment rules of the company and accordingly question of issuance of any letter of appointment or I.D. Card or Pay Slip to enable him to draw wages from the company never arose. The local management paid him wages out of contingency fund on contract basis and

treated the concerned workman as contractor worker. After 1991 he was never engaged on any job of the D.G. Plant. As there was no requirement for him, and accordingly question of his providing job on regular basis did not arise. In view of the facts and circumstances, stated above management submitted that the claim of the concerned workman is absolutely unjustified and for which he is not entitled to get any relief.

4. POINTS TO BE DECIDED

“Whether the claim by the union that Sh. Shyampado Sarkar was continuously engaged for last 6 years as General Mazdoor by management through contractors is justified? If so, whether Shri Shyampado Sarkar is eligible for regularisation by the management? If so, to what relief is Sh. Sarkar entitled?”

5. FINDING WITH REASONS

It transpires from the record that the sponsoring union with a view to substantiate their claim examined the concerned workman as WW-1. Management also in support of their claim examined one witness as MW-1. WW-1 during his evidence disclosed that being appointed by the management he worked at Jealgora D.G. Plant as General Mozdoor continuously from 1991 to 1996 and during this period he put more than 240 days attendance in a year. He further submitted that the Supervisor of the said plant used to look after his job. He disclosed that it was the management who used to supply implements for the work. He disclosed that every day he not only performed 8 hours duty but also put his attendance before Hajira Babu. The job as disclosed by him which he performed was permanent in nature and for which management used to pay him wages through cash department. He alleged that as he claimed his wages as per NCWA management stopped him from work but before stopping him from work they neither issued any notice to him nor paid him any compensation against retrenchment. In support of his claim he relied on certain slips marked as Ext. W-1 to W-4 series. During cross-examination this witness admitted that neither he received any letter of appointment nor he received any pay slip for drawing wages from the management. He admitted that management also did not issue any I.D. Card to him. From his cross-examination it further transpires that on the basis of Gatepass issued by the management he used to enter inside the D.G. Plant to perform his job. MW-1 on the contrary during his evidence disclosed that the concerned workman was allowed to take up certain works as contractor worker inside D.G. Plant which is a prohibited area and for that reason they used to issue slip. He submitted that the management used to give contract to the contractors for the purpose of grass cutting, painting inside the generating station time to time and admitted the slips which the concerned workman produced in course of hearing for his entry inside the said generating station. This witness

categorically denied the fact that the concerned workman worked under the management at generating section from 1991 to 1996. He also denied the fact that beyond contractual payment there was any question of payment of wages to the concerned workman. He disclosed that as per contract they used to make payment for the whole work done by him. Considering the facts disclosed in the pleadings of both sides and also considering the material evidence on record it transpires that specific claim of the sponsoring union is that the concerned workman was engaged by the management at Diesel Generating Plant to take up certain works of permanent nature in the year 1991 and in that capacity he worked up to 1996. It is the contention of the sponsoring union that during the period 1991 to 1996 the concerned workman put his attendance for more than 240 days in each year. They alleged that as the concerned workman demanded wages as per provision said down in NCWA and also for his regularisation the management without assigning any reason stopped him from work. They further contended that before stopping work management neither issued any notice nor paid him any retrenchment compensation. They alleged that he was illegally, arbitrarily and violating the principles of natural justice stopped from work. In support of this claim the sponsoring union relied on certain slips marked as Ext. W-1 series to W-4 series. It has been specifically admitted by the concerned workman that neither he received any letter of appointment from the management to perform the works in question at Diesel Generating Plant nor they issued any I.D. Card to him. He further admitted that management also never issued any pay slip for drawing wages. In spite of disclosing all these facts he submitted that from 1991 to 1996 he worked under the management continuously and put his attendance for more than 240 days in a year. The claim of the management is that the concerned workman as contractor workman used to be deployed in the Diesel Generating Plant for the purpose of painting machineries and also for grass cutting. They further disclosed that during the 1991 on certain occasions the concerned workman was engaged as contractor worker intermittently and for running his job they paid him the contractual money. They categorically denied the fact that they paid any wages to the concerned workman for the work done by him on daily wages basis. I have carefully considered the gate passes produced by the concerned workman in course of hearing which during evidence were marked as Ext. W-1 to Ext. W-4 series. On careful consideration of the gate-passes it transpires that same were issued intermittently during the period from 8-1-91 to 27-12-91. During this period it transpires that he worked under the management in all for 118 days. Excepting the gate-passes in the year 1991 neither the concerned workman nor the sponsoring union has been able to produce a single gate-pass for the years from 1992 to 1996. Burden of proof absolutely rests on the sponsoring union to establish that the concerned workman worked continuously at Diesel Generating Plant under the

management from 1991 to 1996. Burden of proof also rests on the sponsoring union to establish that during the period this workman put his attendance for more than 240 days in a year. Burden of proof also on the sponsoring union to establish that the nature of work which he performed was permanent in nature. It has to be taken into consideration that painting of machineries in the Diesel Generating plant and also cutting of grass in no circumstances can be declared as job of permanent in nature. However, if for arguments sake the submission of the sponsoring union is taken into consideration in that case they cannot avoid their responsibility to show that the concerned workman continuously worked there and put his attendance for more than 240 days in each year during the period from 1991 to 1996. Gate Passes were issued to the concerned workman during the period of 1991 only and during the said year he worked only for 118 days. Therefore until and unless the sponsoring union established that the concerned workman performed his duties for more than 240 days in a year before he was stopped from work, there is no scope at all to uphold their contention. It is seen that sufficient opportunity was given to the sponsoring union to establish their claim but I find no hesitation to say that they have failed to establish their claim lamentably and for which I hold that the concerned workman is not entitled to get any relief in view of his prayer. In the result, the following Award is rendered:-

“ The claim by the Union that Sh. Shyampado Sarkar was continuously engaged for last 6 years as General Mazdoor by the management through contractors is not justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2236.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद II के पंचाट (संदर्भ संख्या 111/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-2006 को प्राप्त हुआ था।

[सं. एल-20012/211/1998-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2236.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. No. 111/99 of the Central Government Industrial Tribunal/Labour Court, Dhanbad II now as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management of CCL and their workmen, which was received by the Central Government on 11-5-2006.

[No. L-20012/211/1998-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Present

Shri B. Biswas,
Presiding Officer.

In the matter of an Industrial Dispute under section 10 (1) (d) of the I.D. Act, 1947.

REFERENCE No. 111 of 1999.

Parties : Employers in relation to the management of Kathara Colliery of M/s. C.C. Ltd and their workmen.

Appearances :

On behalf of the workmen : Mr. K. Chakravorty, Ld.
Advocate.

On behalf of the employers : Mr. D.K. Verma, Ld.
Advocate.

State : Jharkhand Industry : Coal.

Dhanbad, the 24th April, 2006.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/211/98-IR (C-I), dated, the 29th January, 1999.

SCHEDULE

“Whether the action of the management of Kathara Colliery, of C.C. Ltd, PO. Kathara, Distt; Bokaro by not giving promotion to Sri G. Halder, Dumper Operator as Senior Dumper Operator is justified? If not, what relief the concerned workman is entitled to and from which date ??”

2. The case of the concerned workman according to written statement submitted by the sponsoring union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman was appointed as Dumper Operator by the management and got his posting at Kathara Colliery. They alleged that as the concerned workman was involved in Trade Union activities management showing vindictive attitude with ulterior motive deprived him from getting his promotion in the post of Senior Dumper Operator. They further alleged that management when issued promotional orders in favour

of Junior Dumper Operators and placed in the senior grade deprived him from getting such promotion though he was Senior most Dumper Operator.

They submitted that management issued a notice on 22-11-1996 for holding D.P.C. of the concerned workman along with 26 workmen for the post of Senior Dumper Operator but unfortunately the D.P.C. did not consider his promotion though in the list of seniority he was the top most senior without assigning any reason. They alleged that as per recommendation of D.P.C. when management promoted all those workman to the post of Senior Dumper Operators ignored his promotion illegally, arbitrarily and violating the principle of natural justice. Accordingly, he submitted representations to the management on several occasions requesting them to consider his promotion in senior grade as Dumper Operator his prayer however was not considered and for which he was compelled to raise Industrial Dispute before ALC(C) for conciliation which ultimately resulted reference to this Tribunal for adjudication.

The sponsoring union accordingly submitted prayer to pass award directing the management to issue order to promotion as Senior Dumper Operator w.e.f. 1989 with back wages and other consequential relief.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the Written Statement submitted on behalf of the concerned workman. They submitted that as per J.B.C.C.I. Circular No. 36 dt. 22-2-1981, the Dumper Operators are placed in Group B, C and D according to the capacity of the Dumper they operate. The Dumper Operators who operate Dumper of capacity of 22 tonnage and above are put in Grade-I and placed in Group-B whereas a Dumper Operator who operates dumper of 15 tonnage and above but less than 22 tonnage is placed in Grade-II and placed in Group-C wages. The Dumper Operators operating dumpers less than 15 tonnage capacity are placed in Group-D.

They submitted that J.B.C.C.I. Circular No. 16, dt. 22-2-1984 provides Group-A wages to Senior Dumper Operators who operate dumpers of capacity 45 tonnage and above.

They further submitted that before any Dumper Operator is allowed to operate dumper of 45 tonnage capacity and above must possess at least 8 years of experience in operation of heavy duty of the highway dumpers and also should possess at least three years experience in operating dumper as Grade-I Operator in Group-B. They disclosed that J.B.C.C.I. prescribed Group-A scale to the Senior Dumper Operators who operate dumpers of 45 tonnage and above capacity in the opencast workings on the haul roads of quarry benches with steep incline and narrow roadways with utmost skill and control.

They disclosed that the concerned workman is a Dumper Operator deployed in the workshop for operating

empty dumpers at the time of repairing and maintenance as and when required and as per the instructions of the mechanics and fitters who are entrusted to carry on repairing jobs of such dumpers.

They disclosed that seniority is not a factor to be considered in the case of promotion of Dumper Operators as Dumper Operators deployed in the workshop or on the surface can not be considered at par with the Dumper Operators deployed in the open cast workings for hauling of loaded dumpers of different capacities on the haul roads of quarry benches. Accordingly, his demand for placement in Group-A as Senior Dumper Operator is without any justification. They categorically submitted that the decision regarding suitability of Dumper Operators of Grade-D for placement in Grade-C and in Grade-B are considered purely on the basis of merit and job performance and not based on seniority and also subject to recommendation by D.P.C. As such they submitted that the demand of the concerned workman is absolutely unreasonable and unjustified and for which his claim is liable to be rejected.

4. POINT TO BE DECIDED

“Whether the action of the management of Kathara Colliery of M/s. CCL, P.O. Kathara, Distt. Bokaro by not giving promotion to Sri G. Halder, Dumper Operator as Senior Dumper Operator is justified? If not, what relief the concerned workman is entitled to and from which date?

5. FINDING WITH REASONS

It transpires from the record that the sponsoring union in spite of availing themselves of sufficient opportunity did not consider necessary to adduce either oral or documentary evidence with a view to substantiate their claim. Accordingly, management declined to adduce any evidence on their part. In view of this situation based on the facts disclosed in the pleadings of both sides let it be considered if the claim of the sponsoring union is based on substantial footing and if so whether the concerned workman is entitled to get any relief.

Considering the facts disclosed in the pleadings of both sides there is no dispute to hold that the concerned workman is a Dumper Operator and working in that capacity under the management. It is the specific contention of the sponsoring union that management when promoted Junior workmen to the post of Senior Dumper Operator ignored his promotion and as a result of which he was superseded by many dumper operators who are junior to him.

It is their further contention that on 22-11-1996 concerned workman appeared before D.P.C. along with 26 workmen for the posts of Senior Dumper Operators but unfortunately the D.P.C. did not consider his promotion though he was seniormost dumper operator illegally and arbitrarily.

On the contrary management referring J.B.C.C.I. Circular No. 36, dt. 22-2-1981 contended that Dumper operators are placed in group B,C and D according to the capacity of dumpers they operate. They disclosed that a dumper operator who operates dumper of 22 tonnage capacity and above is placed in group B while a dumper operators who operates dumper with 15 to 22 ton capacity is placed in Group C and is placed in Group D if he operates dumper below 15 tons capacity. Referring J.B.C.C.I Circular No. 16 dt. 22-2-1984 it has been further submitted by the management that a dumper operator who operates dumper with capacity of 45 tons and above is placed in Group A subject to the conditions that he must have possess at least 8 years experience in the operation of heavy duty dumpers and also should possess at least three years experience in operating dumper as grade I operator in group B. They disclosed that as utmost skill and control are very much required to operate heavy dumpers in the open cast mines there is no scope at all to place any dumper operator in group A only considering his seniority. It is their further contention that if a workmen fulfills all the conditions mentioned above in that case he is asked to appear before D.P.C. and question of giving his promotion in the post of senior Dumper operators in Group A only is considered on recommendation of D.P.C.

Therefore, according to the submission of the management a dumper operator of group B having at least eight years experience in the operation of heavy duty dumpers and also possess at least three years experience to operate dumper as grade I operator in group B is only eligible for consideration of his promotion as senior dumper operator in group A if his name is recommended by D.P.C.

The sponsoring union in their pleading ventilated that management illegally and arbitrarily refused to give promotion to the concerned workman as Senior Dumper Operators. They are silent if they claimed his promotion in Group-A as Dumper Operator. J.B.C.C.I Circular No. 36 dt. 22-2-1981 has clearly pointed out as discussed above how a dumper operator is placed in Group B, C and D. On the contrary J.B.C.C.I Circular No. 16 dt. 22-2-1984 has pointed out how a dumper operator gets his promotion in Group A. Apart from recommendation of D.P.C. precondition to get his appearance before D.P.C. is that the Dumper Operator should be in group B having at least eighty years experience to operate heavy duty dumper.

Therefore, burden of proof absolutely rests on the sponsoring union to establish that the concerned workman was a dumper operator in Group B and possessed more than eight years experience to operate heavy duty dumper in the open cast mines on the haul roads of quarry benches with steep incline and narrow roadways with all efficiency.

It is seen that inspite of getting ample scope the sponsoring union has failed to produce any cogent paper to show that inspite of having requisite qualification

management ignored his promotion. Management based on J.B.C.C.I Circulars as referred to above have made it clear that seniority is not the criteria at all to consider promotion of a dumper operator in Group-A. It has not been disputed by the Management about rendering service of the concerned workman as dumper operator for a considerable period, but such seniority in the case of promotion in Group A appears to be useless in absence of fulfillment of requisite conditions.

Facts disclosed in the pleading can not be considered as substantive piece of evidence until and unless the same is substantiated by cogent evidence. Here in the instant case both the sponsoring union and the concerned workman have finished their duties just by placing the written statement. They did not consider necessary to produce an iota of evidence based on which there was scope to consider their prayer. Accordingly, in view of the facts and circumstances discussed above there is no hesitation to say that the sponsoring union has lamentably failed to establish their claim and for which the concerned workman is not entitled to get any relief.

In the result the following award is rendered :

“That the action of the management of Kathara Colliery, C.C.L, PO. Kathara, Distt. Bokaro by not giving promotion to Sri G. Halder, Dumper Operator as Senior Dumper Operator was justified.

Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2237.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय धनबाद II के पंचाट (संदर्भ संख्या 71/97) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-06 को प्राप्त हुआ था।

[सं. एल-20012/127/1996-आईआर(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2237.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 71/97) of the Central Government Industrial Tribunal/Labour Court, Dhanbad II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CCL and their workmen, which was received by the Central Government on 11-5-06.

[No. L-20012/127/1996-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD

Present

Shri B. Biswas,

Presiding Officer

In the matter of an Industrial Dispute under section
10 (1) (d) of the I.D. Act., 1947.

REFERENCE NO. 71 of 1997

PARTIES: Employers in relation to the management of
Kathara Mine of M/s. BCCL and their
workmen.Appearances:On behalf of the workmen : Mr. D. Mukherjee,
Advocate.On behalf of the employers : Mr. D.K. Verma,
Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 19th April, 2006.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 / 127/96-IR (C-I), dated, the 26th June, 1997.

SCHEDULE

“Whether the claim by the Union that Sh. Noor Mohammad was superannuated on the basis of a wrong entry of the date of birth is legal and correct? If so, to what relief is the workman entitled?”

2. Case of the concerned workmen according to Written Statement submitted by the sponsoring union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman was a permanent Drill Operator at Kathara Colliery. Initially he was appointed at Jarangdih Colliery and thereafter he was transferred to Kathara Colliery in the year 1978. They submitted that at the time of appointment of the concerned workman at Jarangdih Colliery his date of birth was recorded as 25-11-40 as per School Leaving certificate. They alleged that management illegally and arbitrarily recorded date of birth of the concerned workman as 18-1-36 and when he came to know about wrong recording

of his date of birth he raised his protest. They submitted that the concerned workman also in writing raised his protest about wrong recording of his date of birth as 18-1-36 when he received service excerpt from the management. Inspite of raising objection in writing management did not consider necessary to send him to Medical Board for assessment of his age. They submitted that as per School Leaving Certificate date of birth of the concerned workman is 25-11-40 but instead his date of birth was recorded as 18-1-36. They alleged further that inspite of giving representation management did not consider necessary to take appropriate step for assessment of his age illegally and arbitrarily and for which he was compelled to raise industrial dispute before the ALC(C) Hazaribagh for conciliation which ultimately resulted reference to this Tribunal for adjudication. The sponsoring union accordingly submitted prayer to pass Award directing the management to accept his date of birth as 25-11-40 and to reinstate him with full back wages on the basis of date of birth recorded in the School Leaving Certificate. Alternatively the sponsoring union submitted prayer to pass Award directing the management to refer the concerned workman to Medical Board for determination of his age as per medical jurisprudence and to reinstate him with full back wages as per report of the Medical Board.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted to Written Statement submitted on behalf of the concerned workman.

They submitted that the concerned workman was selected for his appointment under the management of M/s. NCDC in the month of January, 1986. At the time of his appointment he declared his age as 24 years which was duly confirmed by the Medical Board in the year 1960 and accordingly his date of birth was fixed as 18-1-36. They submitted that after assessment of his age by the Medical Board as 18-1-36 same age was recorded in the Form B register as well as in the service sheet and in other official documents. They further disclosed that the said date of birth has been considered as conclusive and the concerned workman cannot raise such dispute at the fag end of his retirement challenging the date of birth recorded in the different registers of the management. They submitted further that as per substantive law of superannuation a workman has to be superannuated on the basis of date of birth recorded in the Company's record. The correction of date of birth can be made within reasonable time so that the management may apply the procedural law for assessment of the age by Medical Board and in suitable cases may correct the date of birth on such basis. They disclosed that a workman cannot advance his claim for correction of his date of birth after his superannuation or at the fag end of his superannuation, as such practice is strictly prohibited and such attempts are generally made with the sole motive of earning extra amounts from the

Public sector Undertaking with the help of litigation. Accordingly they submitted prayer to pass Award rejecting the claim of the sponsoring union taking into consideration that the demand placed by them is baseless.

4. POINTS TO BE DECIDED

“Whether the claim of the union that Sh. Noor Mohammad was superannuated on the basis of a wrong entry of the date of birth is legal and correct ? If so, to what relief is the workman entitled ?”

5. FINDING WITH REASONS

It transpires from the record that the sponsoring union with a view to substantiate their claim examined the one witness as WW-1. Management also in support of their claim examined one witness as MW-1. Considering the evidence of the management as well as of the sponsoring union and considering the facts disclosed in the pleadings of both sides I find no dispute to hold that the concerned workman initially got his appointment at Jarangdih Colliery in the year 1960. Thereafter he was transferred to Kathara Colliery in the year 1978. It is the specific contention of the sponsoring union that at the time of appointment at Jarangdih Colliery the date of birth of the concerned workman was recorded as 25-11-1940 as per his School Leaving Certificate but management illegally and arbitrarily recorded his age as 18-1-1936. It has been further transpired that service excerpt was issued to the concerned workman wherein also his date of birth was recorded as 18-1-1936 instead of 25-11-1940. Accordingly the raised strong objection and submitted representation to the management for rectification of his date of birth as 25-11-1940 instead of 18-1-1936 but management did not pay heed to his appeal. On the contrary management submitted that at the time of his entry in the service during the month of January, 1960 the concerned workman declared his age as 26 years which was duly confirmed by the Medical Board in the year 1960. Accordingly his date of birth was recorded as 18-1-1936 and the said date of birth not only was recorded in the Form B Register of Jarangdih Colliery but also same was recorded in his service book. Management categorically denied the fact about submission of School Leaving Certificate by the concerned workman at the time of his entry in the service. It is their contention that had that been so there was no reason to send the concerned workman before the Medical Officer for assessment of his age. It is seen that in course of hearing management has failed to produce the Form B Register of Jarangdih Colliery wherein his date of birth at the time of his entry in the service was recorded. However, they relying on the Form B Register of Kathara Colliery submitted that date of birth of the concerned workman was per Service book was recorded as 18-1-36. The Form B Register of Kathara Colliery during hearing was produced in original and name, and addressed and other particulars of the concerned workman were recorded in Sl. No. 74 of the said

register which during evidence was marked as Ext. M-1. From this Form B register it transpires that date of birth of the concerned workman was recorded as 18-1-36. Original Service sheet which was maintained by Jarangdih Colliery and subsequently which was forwarded to Kathara Colliery on his being transferred from Jarangdih Colliery during evidence of MW-1 was marked as Ext. M-2. MW-1 during his evidence disclosed that at the time of his entry in service under M/s. N.C.D.C. age of the concerned workman was assessed by the Medical Board and report submitted to that effect was posted in the service book said medical Board's report during his evidence was marked as Ext. M-2/2.

On the contrary WW-1 during his evidence disclosed that he had got his appointment as Genl. Mazdoor at Jarangdih Colliery in the year 1963. This averment finds no basis if his original service book maintained by Jarangdih Colliery was taken into consideration. It transpires clearly that the concerned workman got his appointment on 19-1-60 and not in the year 1963. This witness, however, disclosed that from Jarangdih Colliery he was transferred to Kathara Colliery and submitted that at the time of his appointment his date of birth was recorded as 25-11-1940, based on School Leaving Certificate produced by him. He further disclosed that in the year 1987 management issued service excerpt to him where from he came to know that his date of birth was recorded in the register wrongly. Instantly he raised his objection but management though assured to rectify his date of birth, did not do so. He alleged that management illegally superannuated him from service in the year 1996. Provisional Matric Certificate and service excerpt during evidence were marked as Ext. W-1 and W-2. It transpires that the concerned workman passed Matriculation Examination in the year 1979 and from the provisional certificate issued to him shows that his date of birth was recorded as 25-11-1940. It is clear that he passed Matriculation examination long after getting his entry in the service. Accordingly date of birth recorded therein cannot be accepted. In course of hearing he relied on transfer certificate issued by his School authority which during evidence was marked as Ext. 'Y' for identification. This school leaving certificate was issued on 5-9-94 wherein his date of birth was recorded as 25-11-1940. In course of hearing inspite of getting ample opportunity the sponsoring union has failed to produce original school register to substantiate his claim that in the school register his date of birth was recorded as 25-11-40. Representative of the concerned workman in course of hearing relied on a decision reported in 2002 AIR SCW 56. Their Lordships of the Hon'ble Apex Court in the said decision observed that date of birth of the respondent as 2-2-1936 cannot be seriously disputed in view of the certificate issued by the Registrar of birth and death. The certificate issued by Registrar is considered as public document and accordingly question does not arise to disbelieve the date of birth of

that respondent recorded therein. Register of school cannot be considered as public document. Therefore entries made therein are required to be proved strictly. It is the specific claim of the sponsoring union that at the time of his entry in the service the concerned workman produced School leaving certificate but I do not find any whisper to that effect considering materials on record. As the concerned workman inspite of getting ample opportunity failed to prove the School Register in course of hearing, just based on a certificate issued by the Headmaster of that school I find it difficult to accept the contention of the sponsoring union that date of birth of the concerned workman was 25-11-1940.

It is fact that the concerned workman raised his objection about date of birth recorded in the Service Excerpt. It is his further allegation that inspite of raising such objection management did not take any step for rectification of his date of birth. Concerned workman raised industrial dispute after his superannuation from service in the year 1996. The service excerpt was received by him in the year 1987. No satisfactory explanation on the part of the sponsoring union is forthcoming why the concerned workman remained silent for such long years without raising industrial dispute particularly when he realised that management would do nothing for rectification of his date of birth. Contention of the management on the contrary is that there was no scope to take step for rectification of the date of birth as 25-11-1940 instead of 18-1-1936 recorded in the service book of the concerned workman and also in the Form B Register as they did not find any discrepancy therein. They disclosed that at the time of entry in the service the concerned workman disclosed his age as 24 years. Inspite of disclosing that age he was placed before the Medical Board for assessment of his age. After medical examination age of the concerned workman was assessed as 24 years and based on that report date of birth of the concerned workman was recorded as 18-1-1936 in his service book maintained by Jarangdih Colliery under control of M/s. NCDC. Based on service book same date of birth of the concerned workman was recorded in the Form B Register of Kathara Colliery. The representative of the concerned workman submitted that in course of hearing management have failed to produce the original Form B Register of Jarangdih Colliery. It is fact that management have failed to produce the Form B Register of that colliery. Representative of the concerned workman also casted doubt of the medical certificate issued by the Assistant Surgeon under control of the said Railway department, which during evidence of MW-1 was marked as Ext. M-2/2. This certificate was issued by the Medical Officer dt. 18/19-1-1960 i.e. more than 37 years before raising industrial dispute by the sponsoring union. This Medical paper as is more than 30 years old document has got its ample evidentiary value to consider if its contents are not

strictly disproved by cogent evidence. Representative of the concerned workman in course of hearing raised question that when the concerned workman was an employee of Jarangdih Colliery how Assistant Surgeon State Railway department issued the same. In course of hearing Ld. Advocate for the management submitted that at that relevant time said colliery was a subsidiary concern of State Railway department and for which the concerned workman was rightly placed before the Assistant Surgeon for his medical examination to ascertain medical fitness and also for assessment of his age. It further transpires that the concerned workman also put his LTI in the said certificate. Therefore, before disbelieving authenticity of that certificate burden of proof rests on the sponsoring union to establish that the concerned workman neither appeared before the said Medical Board for his medical examination for assessment of his age nor he put his LTI therein. Mere denial finds no value until and unless the same is based with material evidence. As the document is a public document and more than 30 years old and also as no contra evidence is forthcoming to disprove the genuinity of this certificate I find little scope to deny its credibility. It is the contention of the management that based on this medical report the Manager Jarangdih Colliery recorded full particulars of the concerned workman in the service book wherein his date of birth was recorded as 18-1-1936. In the service book the concerned workman put his LTI also. The said service book during evidence of MW-1 was marked as Ext. M-2. After his transfer from Jarangdih Colliery to Kathara Colliery said service book was forwarded there and his subsequently service particulars time to time were recorded therein till the date of his superannuation. It is further seen that after superannuation management paid his gratuity amounting to Rs. One lac. It is fact that management have failed to produce the Form B Register of Jarangdih Colliery but simultaneously they have produced the service book of the concerned workman which was opened by the management of Jarangdih Colliery. As the service book is a vital document wherein all particulars of the concerned workman time to time were recorded the same has to be dealt with all importance. Accordingly burden of proof rests on the sponsoring union to establish that date of birth as 18-1-1936 recorded in the service book of the concerned workman was wrong. Representative of the concerned workman in course of hearing relied on a decision reported in 1982 Supreme Court Cases (L & S) 200 in support of their claim. In the said decision Their Lordship of the Hon'ble Apex Court observed "Entries in school register and admission form regarding date of birth constitute good proof of age. There is no legal requirement that the public or other official book should be kept only by a public Officer but all that is required under Section 35 of the Evidence Act is that it should be regularly kept in discharge of official duty. Based on the finding of the Hon'ble Apex Court the representative of the concerned workman submitted that transfer certificate granted by the

School authority shows that date of birth of the concerned workman was 25-11-1940 and not 18-11-36. Transfer certificate cannot be considered as authentic document to rely on. I have already discussed above that inspite of getting ample opportunity the sponsoring union in course of hearing has failed to produce school admission register with a view to establish their claim. Transfer certificate which relied on was issued in the year 1994. As such its credibility comes to question. The claim of the sponsoring union that date of birth of the concerned workman is 25-11-1940 ipso facto cannot wipe out the date of birth recorded in the vital document maintained by the management just taking into consideration that they have failed to produce the Form B Register of Jarangidh Colliery. Accordingly after careful consideration of all the facts and circumstances I do not find any sufficient ground at all to disbelieve the date of birth of the concerned workman recorded in the original service book maintained by the management of Jarangidh Colliery under control of NCDC Ltd. while he joined to his service in the year 1960. Accordingly I do not find any scope to say that management illegally, arbitrarily and violating the principle of natural justice superannuated the concerned workman from his service w.e.f. 18-1-96 FN and for which he is not entitled to get any relief. In the result, the following Award is rendered:—

“Claim of the Union that Sh. Noor Mohammad was superannuated on the basis of a wrong entry of the date of birth is not legal and correct. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2238.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद II के पंचाट (संदर्भ संख्या 70/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-06 को प्राप्त हुआ था।

[सं. एल-20012/20/2005-आईआर(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2238.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 70/2005) of the Central Government Industrial Tribunal/Labour Court, Dhanbad II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 11-5-06.

[No. L-20012/20/2005-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2) AT DHANBAD.

PRESENT :

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10
(1) (d) of the I.D. Act., 1947.

REFERENCE NO. 70 of 2005

PARTIES: Employers in relation to the management of Kustore Area of M/s. BCCL and their workmen.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Mr. D.K. Verma,
Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 25th April, 2005.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/20/2005-IR (C-1), dated, the 19th July, 2005.

SCHEDULE

“Whether the action of the management of Kustore Colliery of M/s. BCCL in not giving monetary compensation to Smt. Sakli Bhuini, the dependant wife of late Govind Bhuia under the provision NCWA is justified? If not, to what relief is Smt. Sakli Bhuini entitled and from what date?”

2. In this case neither the concerned workman nor his representative appeared before this Tribunal. Management however, made appearance through their authorised representative. It transpires from the record that registered notices and show cause notice consecutively were issued to the concerned workman/ sponsoring union. In terms of Rule 10 (B) of the I.D. Central Rules, 1957 it is mandatory on the part of the concerned workman/ sponsoring union to file Statement of claim, list of reliance and witnesses, relevant documents within 15 days from the date of receipt of the order of reference. The concerned workman/sponsoring union not only violated the above rules but also even did not consider necessary to respond to the notices issued by this Tribunal. Gesture of the workman/sponsoring union if is taken into consideration will expose clearly that they are not interested to proceed with the hearing of this case. In the circumstances this Tribunal also finds no ground to adjourn the case *suo*

more for days together. Hence, the case is closed and a 'No dispute' award is passed in this reference presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

सं. आ. 2239.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, धनबाद II के पंचाट (संदर्भ संख्या 207/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-06 को प्राप्त हुआ था।

[सं. एल-20012/197/2001-मर्फता(सी-1)]

एस. एस. गुप्ता, अमर सचिव

New Delhi, the 15th May, 2006

S.O. 2239.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 207/2001) of the Central Government Industrial Tribunal/Labour Court, Dhanbad II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 11-5-06.

[No. L-20012/197/2001-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.

PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10 (1) (d) of the I.D. Act, 1947.

REFERENCE NO. 207 of 2001

PARTIES: Employers in relation to the management of Kustore Area of M/s BCCL and their workmen.

APPEARANCES:

On behalf of the workmen : Mr. Ram Ratan Ram,
Ld. Advocate:

On behalf of the employers : Mr. H. Nath,
Ld. Advocate:

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 25th April, 2006.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10 (1) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/197/2001. L.R. (C-I) dated 11-07-2001.

SCHEDULE

Whether the action of the management of BCCL of not promoting Shri Rajendra Ram, Machinist Cat.-V East Bhagatdih Colliery to Cat. VI is justified. If not, to what relief is the workmen entitled?"

2. The case of the concerned workman according to written statement submitted by the sponsoring union on his behalf in brief is as follows:

The sponsoring union submitted that concerned workman was promoted to category V from category IV by the management vide office order no. EBC/PM/A-8/34/93/ 259 dt. 19-6-1993 along with 17 other workmen as per provision of cadre scheme and in view of recommendation made by the Departmental Promotion Committee.

They alleged that management though promoted 16 other workmen to category VI and grade 'C' in T&S did not consider the promotion of the concerned workman in that category taking the plea that there is no provision under Cadre Scheme for promotion of machinist. They disclosed that J.B.C.C. I vide its implementation instruction No. 33 dt. 17-7-1984 has clearly mentioned the provision of promotion from helper category II to workshop machinist category IV and category IV to category VI. Accordingly as per the said instruction all category V workers are entitled to get their promotion in category VI after three years experience in that category through D.P.C./Trade test.

They submitted that as at East Bhagatdih Colliery workshop he is the only machinist in category V and there is no one in category VI and also as he has already rendered his service in that category for more than eight years he is very much entitled to get his promotion in category VI.

They submitted that the concerned workman has been compelled to raise Industrial Dispute as the management refused to consider his promotion in category VI inspite of accruing his eligibility.

Accordingly, they submitted prayer to pass award directing the management to issue order of promotion in favour of the concerned workman in category VI with effect from 20-6-1996 i.e., the date on which he completed his three years service in category V with back wages and other consequential reliefs.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workman.

They submitted that the concerned workman is a permanent employee of East Bhagatdih Colliery under Kustore Area and has been working as Machinist in category-V since June 1993.

They submitted that a Departmental Promotion Committee was constituted to consider the cases of promotion of the workers attached to electrical and mechanical discipline and those who were found suitable for promotion by the said committee were promoted to next higher grade/category as per recommendation. They disclosed that the concerned workman could not be promoted to higher category as there was no vacancy. However, the case of the concerned workman will be considered by the D.P.C. on availability of vacancy. They submitted further that no body is entitled to promotion unless he fulfills the conditions of the cadre scheme as prescribed by N.C.W.A. and subject to availability of vacancy.

Accordingly they submitted prayer to pass award rejecting the claim of the concerned workman.

4. POINTS TO BE DECIDED

“Whether the action of the management of BCCL of not promoting Shri Rajendra Ram, Machinist Cat.-V East Bhagatdih Colliery to Cat.-VI is justified. If not, to what relief is the workman entitled ?”

5. FINDING WITH REASONS

It transpires from the record that the sponsoring union with a view to substantiate their claim examined the concerned workman as W.W.I. Management also in support of their claim examined two witnesses as M.W.1 and M.W.2.

Considering the evidence of both sides there is no dispute to hold that originally concerned workman was posted at East Bhagatdih Colliery as Machinist in category, V. It has been admitted by the sponsoring union that he got his promotion in category-V by order of the management as per recommendation of the Departmental Promotion Committee. M.W.2 during his evidence disclosed that in the year 2002 the concerned workman was transferred to Kustore workshop from East Bhagatdih Colliery. He admitted that in the year 1996-97 Departmental Promotion Committee was held for considering promotion of Machinist in category-VI. His evidence further disclosed that the concerned workman was called to appear before the said committee. He further admitted that though the concerned workman passed the said interview he could not be given promotion in category-VI for want of vacancy.

M.W.I. during his evidence disclosed that there was no post of Machinist in category-VI at East Bhagatdih

Colliery and for which there was no scope to give him promotion in that category. However, he was given wage benefit of category-VI under S.L.U. w.e.f. 1-1-2002. W.W.I., i.e., the concerned workman during his evidence admitted that management has given him the wage benefit of category-VI as per S.L.U. His grievance is that inspite of vacancy management ignored to give him promotion in category-VI. It is admitted fact that before his transfer to Kustore Workshop concerned workman was posted as East Bhagatdih Colliery as Machinist in category-V. It has been admitted by the management that the concerned workman passed the test conducted by D.P.C. for consideration of his promotion in category-VI. It is clear that the concerned workman fulfilled the criteria for getting his promotion in higher category. Therefore, the allegation which the sponsoring union ventilated in the written statement that management intentionally did not consider the name of the concerned workman for his promotion to category-VI finds no basis.

It has been specifically mentioned by the management that at East Bhagatdih Colliery where the concerned workman was posted in category-V there was no post for Machinist in category-VI and for which his promotion in that category could not be considered. They further submitted that there was no reason to give wage benefit of category-VI as per S.L.U. to the concerned workman inspite of availability of vacancy. Accordingly burden of proof rests on the concerned workman to establish that there was clear vacancy in category-VI under control of the management and they illegally and arbitrarily instead of promoting him in that category only allowed him to enjoy wage benefit as per S.L.U. It is seen that neither the concerned workman nor the sponsoring union inspite of getting opportunity in course of hearing has failed to produce any relevant paper to show existence of clear vacancy in the post of Machinist in category-VI. Therefore, just based on such submission it is difficult to uphold the contention of the sponsoring union. In course of hearing they have failed to produce an iota of evidence to show that management was vindictive and violating the principle of natural justice withholding his promotion only allowed him to enjoy the wage benefit of category-VI as per S.L.U.

Accordingly, after careful consideration of all the facts and circumstances I find no cogent reason to uphold the contention of the sponsoring union and for which he is not entitled to get any benefit.

In the result the following award is rendered :

“That the action of the management of BCCL of not promoting Sri Rajendra Ram, Machinist category-V, East Bhagatdih Colliery, to category-VI is justified.

Consequently, the concerned workman is not entitled to get any benefit.”

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का.आ. 2240.—औद्योगिक अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रिम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 92/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-2006 को प्राप्त हुआ था।

[सं. एल-20012/193/1992-आई आर (सी-1)]

एस.प्रस.गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2240.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 92/93) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-II, now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 11-5-2006

[No. L-20012/193/1992-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS, Presiding Officer

REFERENCE NO. 92 OF 1993.

In the matter of an Industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

PARTIES : Employers in relation to the management of Moonidih Project of M/s. BCCL and their workmen.

APPEARANCES:

On behalf of the employer : Mr. H. Nath, Ld. Advocate.

On behalf of the workmen : Mr. S. Bose, Representative of the workmen.

State : Jharkhand

Industry : Coal

Dated, Dhanbad, this the 25th April, 2006.

AWARD

1. The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012(193)92-I.R. (Coal), dated the 8th July, 1993.

SCHEDULE

“Whether the demand of the Secretary, Rashtriya Colliery Mazdoor Sangh of Moonidih from the management of Moonidih Project Area of M/s. BCCL P.O. Moonidih, Distt : Dhanbad for regularisation of the following workmen is justified ? If so, to what relief the workmen are entitled and from which date ?

ANNEXURE

1. S/Shri Ambika Pd., Mishra 2. Pawan Kr. Sharma
3. Rajendra Mishra, 4. Ashok Mishra, 5. Yashvir Kr. Sharma
6. Chetlal Dhobi 7. Ashutosh Parasar 8. Ashok Kr. Singh 9. Subnaraian Singh 10. Raj Nath Singh 11. Dudit Nath Singh
12. Radhey Singh 13. Mahendra Singh.

2. The case of the concerned workman according to written Statement submitted by the sponsoring union on their behalf in brief is as follows :

The sponsoring union submitted that the concerned workman were engaged by the management to prepare clay cartridges from early of 1976 and they were allowed to continue in preparing the same. They submitted that clay cartridges are required by the management for production of coal by blasting the coal faces with explosives and as it is a continuous process requirement of the same are considered as permanent and perennial item. They submitted that it was the management who regularly used to supply all materials, tools etc. to the concerned workmen. They submitted that for preparing clay cartridges management arbitrarily used to pay prices on piece rated basis and thereby deprived them of getting appropriate wages and other fringe benefits.

They submitted that the management by a general policy decision has abolished all ad hoc rate system and regularised the clay cartridge makers in time range of Cat. I along with other fringe benefits which are available to similar permanent employees. Accordingly, the concerned workmen approached the management for their regularisation under similar terms and conditions of clay cartridge makers in other coal mines under their control.

They submitted that local management of Moonidih Project site communicated the grievances of the concerned workmen to Head Quarters sometimes in the month of May 1990 for consideration but to no effect and for which they raised an Industrial Dispute before ALC(C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication.

They alleged that the management have regularised workmen who were engaged to perform similar job but ignored to regularise them illegally, arbitrarily and violating the principle of natural justice. Accordingly, they submitted prayer to pass award directing the management to regularise the concerned workmen as clay cartridge maker with retrospective effect.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement filed on behalf of the concerned workmen.

They submitted that for the purpose of manufacture of clay cartridges used for stemming purposes they have their own machine to manufacture and for which there was no need for engagement of workers to manufacture the same manually. They however, submitted that during 1981 to 1984 as the said machine could not be operated they had to purchase clay cartridges from the market. They submitted that one of the concerned workmen Ambika Prasad Mishra approached the management for awarding him contract for manufacture and supply of clay cartridges on agreed rates. Apart from Sri Mishra other persons also approached the management to give them contract for manufacture and supply of clay cartridges by engaging manual labour. After considering all offer they allowed contract to said Mishra for manufacture and supply of clay cartridges. Shri Mishra used to supply clay cartridges on an average of 4,000 to 4,500 per day. They disclosed that work load of a clay cartridge maker has been fixed at 1000 cartridges per day. As such there was no scope to deploy more than four workmen for manufacture of 4000/4500 cartridges per day, as per agreed rates. They submitted that efficiency of blasting through manually manufactured cartridges as deteriorated they again swept on to use mechanical process for manufacturing clay cartridges and accordingly it was redundant to engage contractor for manufacture of clay cartridges manually. However, in case of breakdown of machine they had to purchase clay cartridges from the open market or by engaging any contractor. They emphatically submitted that there was no need for continuous engagement of contractor to manufacture clay cartridges manually and for which question of regularisation of any worker as such did not arise.

They disclosed that it was Ambika Prasad Mishra who was engaged as contractor to manufacture clay cartridges and he was to deploy his own men for that purpose. It was he who also used to pay wages to his workers and for which they did not have any manner of involvement in that regard. They also used to meet up bills on its production by the contractor. They disclosed that Shri Mishra was very aware that he was engaged for supply of clay cartridges as per requirement and for which there was no relationship of employer and employee between them and Shri Mishra and his workers.

They submitted categorically that as the demand of the sponsoring union is a stale demand and having no basis at all the concerned workmen are not entitled to get any relief.

4. Points to be decided

“Whether the demand of the Secretary, Rashtriya Colliery Mazdoor Sangh of Moonidih from the

management of Moonidih Project Area of M/s. BCCL P.O. Moonidih, Distt. Dhanbad for regularisation of the following workmen is justified ? If so, to what relief the workmen are entitled and from which date?

ANNEXURE

1. S/Shri Ambica Pd. Mishra, 2. Pawan Kr. Sharma,
3. Rajendra Mishra, 4. Ashok Mishra, 5. Yashvir Kr. Sharma, 6. Chetlal Dhobi, 7. Ashutosh Parasar, 8. Ashok Kr. Singh, 9. Subnarain Singh, 10. Raj Nath Singh, 11. Duddh Nath Singh, 12. Radhey Singh, 13. Mahendra Singh.

5. Finding with reasons

It transpires from the record that the sponsoring union with a view to substantiate their claim examined one of the concerned workman as W.W.I. Management also in support of their claim examined on witness as M.W.I.

It is the specific claim of the sponsoring union that the management for the purpose of manufacturing clay cartridges engaged the concerned workmen during early part of 1976 and remained in the said job till 1985 as they stopped them from work thereafter. It is their specific allegation that inspite of rendering continuous service management not only deprived them from paying proper wages but also refused them to regularise as clay cartridge workers. They further disclosed that use of clay cartridges in the mines is essential for the purpose of production of coal. Though this fact was not denied management categorically denied the fact that the concerned workmen were engaged by them since 1976 for the purpose of manufacturing clay cartridges. They disclosed that for the purpose of manufacturing clay cartridges they have their own machine but as the said machine was not operating during the period from 1981 to 1984 they invited open tenders from the intending contractors for supply of cartridges as per rate. As tender submitted by Ambika Prasad Mishra was accepted, contract was given to him for supply of clay cartridges as per requirement. They emphatically denied engagement of the concerned workmen for the purpose of manufacturing clay cartridges.

W.W.I. i.e. Ambika Prasad Mishra who is one of the concerned workmen during his cross-examination admitted that management used to pay for manufacture of clay cartridges through vouchers on the basis of bill submitted by him. This witness admitted that it was he who used to engage workers for manufacturing clay cartridges. He admitted that he used to deduct pay/wages of his workers in case of non satisfactory service. He admitted that he did not issue any letter of appointment to the workers whom he used to appoint for the purpose of manufacturing clay cartridges. He admitted further that he worked for the management by engaging workers on the basis of agreement entered into between him and the management. He admitted that as per agreement there was no whisper

that management would provide shade and tools for the purpose of manufacturing clay cartridges.

This witness further admitted that on the basis of tender called by the management different parties used to submit their tenders and management used to accept that tender which would be the lowest one. He disclosed that in the said tender not only management used to mention time to be given for manufacture of clay cartridges but also they would mention the number and its cost.

He admitted that on acceptance of the tender as per direction he would start manufacturing clay cartridges, and disclosed that management never interfered in the matter of engagement of number of workers by him.

Therefore, evidence of W.W.I. has exposed clearly that management never engaged the concerned workmen for manufacture of clay cartridges. It is further clear that to manufacture clay cartridges time to time management used to call tenders from interested persons and management used to accept tender having lowest rate submitted by the person.

It is admitted fact that management used to accept tender of the concerned workman i.e. W.W.I. for his tendering lowest rate to manufacture clay cartridges.

It reveals further from his evidence that he was in exclusive domain over appointment of any worker to manufacture clay cartridges. He was the authority to pay wages or to deduct wages of his workers. The averment of W.W.I. therefore has exposed very clearly that he was master of his employees. Accordingly, if this fact is taken into consideration there is no scope to draw any inference that employer and employees relationship grew up between the management and the employees of W.W.I. Based on two registers Exht. W-I the sponsoring union intended to show a list of workmen who were engaged for manufacturing clay cartridges to be supplied to the management. I have considered the registers and I hold that these registers in no circumstances could be considered as authenticated registers. Moreover, the same in no circumstance proves that the names of the persons which are appearing therein were actually engaged for manufacturing clay cartridges and it was the management who paid wages to them. On the contrary if evidence of W.W.I. is taken into consideration it will expose clearly that management had no role at all to engage workmen to manufacture clay cartridges as per contract.

It is the specific contention of the management that they never engaged any workmen to manufacture clay cartridges. They submitted that during the years from 1981 to 1984 as the machine for manufacturing clay cartridges was out of operation they used to invite tenders from intending contractors for supply of clay cartridges and accepting lowest price as per tender they used to give contract to that contractor for supply of clay cartridges. In

support of their claim they relied on two papers marked as Exts. M-1 and M.2 From these papers it has been exposed clearly that tender was given to Ambika Prasad Mishra, one of the concerned workmen for manufacturing clay cartridges. W.W.I.i.e. this Ambika Prasad Mishra during his cross examination admitted this fact. It is further contention of the Management that payment used to be made to said Shri Prasad on the basis of bill submitted by him. The bunch of bills which the management submitted in course of hearing of the instant reference case has definitely supported their claim. Therefore, considering the facts discussed above it is clear that time to time it was said Ambika Prasad who used to get contract as per tender by the management for the purpose of manufacturing clay cartridges. Considering this aspect there is sufficient scope to say that as per contract entire burden was on said Ambika Prasad to supply the required clay cartridges. No story is forthcoming before this Tribunal in course of hearing how the other workmen were engaged by the management to manufacture clay cartridges particularly when concerned workmen Ambika Prasad in course of his evidence categorically admitted that he used to employ other workers for that purpose not only but also he used to pay their wages. Accordingly for manufacturing of clay cartridges as per contract when said Ambika Prasad was the employers the other workman were his employees. This proves that direct relationship of employer and employee existed between him and rest workmen. It therefore, proved that no employer and employees relationship grew up between the management and the concerned workmen. There was contractual agreement between the management and Ambika Prasad for supply of clay cartridges. When this fact was admitted by him there is no scope at all to draw conclusion that he was engaged by the management as their worker to manufacture clay cartridges.

In view of the facts discussed above I consider that entire burden shift on the sponsoring union to establish that the concerned workmen were actually engaged by the management as their workers to manufacture clay cartridges. They have failed to produce any cogent evidence to show that it was the management who used to provide sheds tools for the purpose of manufacturing clay cartridges. I find no hesitation to say that sponsoring union inspite of getting sample scope has failed to substantiate their claim and for which they are not entitled to get any relief.

In the result the following award is rendered:

AWARD

"That the demand of the Secretary, Rashtriya Colliery Mazdoor Sangh of Moonidih from the management of Moonidih Project Area of M/s. BCCL, P.O: Moonidih Distt. Dhanbad for regularisation of the workmen whose names have been given in the

Annexure of the reference is hope justified. Consequently the concerned workmen are not entitled to get any benefit."

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का.आ. 2241.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एसएआई एल के प्रबंधत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 45/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-2006 को प्राप्त हुआ था।

[सं. एल-20012/81/1996-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2241.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 45/2000) of the Central Government Industrial Tribunal/Labour Court Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SAIL and their workman, which was received by the Central Government on 11-5-2006.

[No. L-20012/81/1996-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT:

SHRI B. BISWAS,
Presiding Officer

In the matter of an Industrial dispute under Section
10(1)(d) of the I.D. Act., 1947.

REFERENCE NO.45 OF 2000.

PARTIES: Employers in relation to the management of
SAIL and their workman.

APPEARANCES:

On behalf of the workman : Mr. D.K. Verma, Advocate

On behalf of the employer : Mr. B. Mukherjee,
Dy. Manager (Legal)

State : Jharkhand Industry : Coal

Dhanbad, dated the 24th April, 2006.

AWARD

1. The Government of India, Ministry of Labour, in
exercise of the powers conferred on them under Section

10(1)(d) of the I.D. Act, 1947 has referred the following
dispute to this Tribunal for adjudication *vide* their Order
No. L-20012/81/96-IR(C-I) dated the 28th February, 2000.

SCHEDULE

"KYACENTRALCOAL SUPPLY ORGANISATION
SAILKEY PRAVANDHTANTRA DWARA DINAK
1-9-87 SEY SHRI VUPENDRA PRASAD, SAHAYAK
LOADING INSPECTOR KI SEVA YA SAMAPTA
KIYA JANA VIDHIBAT NAYASANGAT EVAM
UCHIT HAI? YADI NAHI TO KARMKAR KEY
PATRA HAI?"

2. Case of the concerned workman according to the
Written Statement submitted by the sponsoring union on
his behalf in brief is as follows :—

The sponsoring union submitted that the concerned
workman was appointed by the management of Central
Coal Supply organisation, an unit of SAIL in the post of
Asstt. Loading Inspector in the year 1984. They alleged
that the concerned workman was terminated by the
management without assigning any reason and without
giving any notice. They alleged further that the management
also has not paid retrenchment compensation before
terminating the services of the concerned workman. They
further submitted that before termination of services of the
concerned workman management also neither issued any
chargesheet nor conducted any departmental enquiry
against him. They alleged that the said termination of service
of the concerned workman was in utter violation of the
mandatory provision of Section 25F of the I.D. Act.
Accordingly after termination of his service the concerned
workman approached the management for his reinstatement
but the management did not pay any heed to his such
appeal. They further submitted that the concerned workman
put his attendance for more than 240 days in a year before
he was terminated from service. As the management ignored
to reinstate the concerned workman to his service he raised
an industrial dispute before the ALC(C) which ultimately
resulted reference to this Tribunal for adjudication. The
sponsoring union accordingly submitted prayer to pass
an Award directing the management to reinstate the
concerned workman to his service with full back wages
and other benefits reaching that order of dismissal issued
against him.

3. Management on the contrary after filing Written
Statement-cum-rejoinder have denied all the claims and
allegations which the sponsoring union asserted in the
Written Statement submitted on behalf of the concerned
workman. They submitted that the Govt. of India, Ministry
of Labour made an error in referring the dispute before this
Tribunal as the same suffers from various defects. Secondly
it is both in law and facts. Accordingly instant reference is
liable to be dismissed on maintainability point. In addition
to such claim management submitted that the concerned
workman was engaged on casual basis for a specified period.

of three months in the post of Asstt. Loading Inspector on daily wages of Rs. 26.91 vide order dt. 14-11-84. They further submitted that as the concerned workman was engaged on daily wage basis question of his termination from service never arose. Moreover, they submitted that the sponsoring union agitated the matter in their Written Statement but they did not disclose actually from which date the concerned workman was terminated from his service by the order of management. Accordingly it is clear that the allegation of the union was vague and if was so made with malafide intention and ulterior motive. They submitted that as the appointment of the concerned workman was for a specified period, after completion of the said period his service was automatically came to an end. Therefore, question of termination of his employment did not arise. On the contrary they submitted that the concerned workman abandoned his employment on 25-8-86 without informing the management. They disclosed that as engagement of the concerned workman was for specified period and time to time question of issuance of notice or pay in lieu of notice never arose. They submitted that the claim made by the sponsoring union is baseless and has no merit at all and accordingly they submitted prayer to pass an Award rejecting the claim of the concerned workman.

4. POINTS TO BE DECIDED

“KYACENTRAL COAL SUPPLY ORGANISATION
SAIL KEY PRAVANDHTANTRA DWARA DINAK
1-9-87 SEY SHRI VUPENDRA PRASAD, SAHAYAK
LOADING INSPECTOR KI SEVA YA SAMAPTA
KIYA JANA VIDHIBAT NAYASANGAT EVAM
UCHIT HAI? YADI NAHI TO KARMKAR KIS
RAHAT KEY PATRA HAI?”

5. FINDING WITH REASONS

It transpires from the record that management with a view to substantiate their claim examined two witnesses as MW-1 and MW-2. The sponsoring union on the contrary with a view to substantiate their claim examined one witness i.e. the concerned workman as MW-1.

Before considering the case on merit let us be considered in view of preliminary objection made by the management whether the instant case is maintainable in the eye of law. It has been specifically mentioned by the management referring a decision of the Hon'ble Supreme Court in the matter of SAIL-versus-National Waterfront Workers Union reported in AIR 2001 SC 3527 that Central Government is the appropriate Government only in respect of an industry carried or under the authority of the Central Government. Hon'ble Supreme Court held that the Central Government's the appropriate Government if:—

- (i) the undertaking of the Central Government or any other undertaking is included in S. 2(e)(o) nomine (by name)

(ii) it is an industry carried on

- (a) by or under the authority of the Central Govt.
- (b) by railway company or
- (c) it is a specified controlled industry.

Referring this fact it has been submitted by the management that Central Government is not the appropriate Government as the name of Central Coal Supply Organisation is not mentioned in Section 2 and as it is not controlled by the Central Government or any authority of the Central Government. Therefore, the Central Government has no jurisdiction to refer the dispute before this Hon'ble Tribunal for adjudication and secondly this Tribunal has also no jurisdiction to adjudicate to the dispute. It transpires from the record that initially Ministry of Labour refused to refer the dispute for adjudication by any Tribunal under the Central Government. Against that order the sponsoring union preferred a Writ Petition before the Hon'ble High Court, Patna, Ranchi Bench in C.W.J.C. No. 2474/98(R). After hearing both sides the said Writ application was allowed and the impugned order dt. 14-7-97 as contained in Annexure III was quashed. Accordingly the concerned respondent i.e. Ministry of Labour was directed to refer the dispute afresh for adjudication to the Tribunal. In view of this clear observation made by the Hon'ble Court, Govt. of India, Ministry of Labour referred the instant reference for adjudication by this Tribunal. When by order of the Hon'ble Court the instant reference case was initiated, there is no scope to say that this Tribunal has no jurisdiction to take up hearing of this case in view of the facts stated by the management in their petition. Accordingly I hold that the instant reference case is absolutely maintainable in the eye of law.

Now let us consider if the claim of the concerned workman is based on cogent footing or not. Considering evidence of both sides and also considering the facts disclosed in the pleadings I find no dispute to hold that the concerned workman was appointed as Asstt. Loading Inspector on casual and daily wages basis for a period of three months. The office order marked as Ext. M-1 shows clearly that the concerned workman was engaged as Asstt. Loading Inspector on N.M.R. basis at daily wages of Rs. 26.91 only for a period of three months w.e.f. the date he joins his duty and was posted at Moonidih Washery. From the document marked as Ext. M-1/1 it transpire that the concerned workman joined to his duty on the basis of his engagement order w.e.f. 16-11-84. This letter clearly shows that he was engaged by the management on daily wages basis only for period of three months. It is the contention of the management that after three months his service was stopped automatically. It is the further contention of the management that from time to time the concerned workman was engaged as Asstt. Loading Inspector on daily wages and also as and when required basis.

In support of this claim management relied on different engagement letters marked as Ext. M-1/3 to M-1/11. It is seen that after his first engagement by the engagement letter marked as Ext. M-1/3 the concerned workman was engaged afresh for a period of three months w.e.f. 14-2-85 to 31-5-85. Thereafter by engagement letters marked as Ext. M-1/4 to M-1/6 the concerned workman was engaged as Asstt. Loading Inspector on daily wages basis w.e.f. 1-9-85 to 31-10-85 and 1-11-85 to 31-12-85. Therefore, the office order marked as Ext. M-1 to M-1/6 shows that during the period of 1985 the concerned workman time to time was engaged to work as Asstt. Loading Inspector on daily wages basis.

Similarly during the period from February, 1986 to 31-10-86 by issuing separate and independent office orders marked as Ext. M-1/7 to M-1/10 the concerned workman was engaged as Asstt. Loading Inspector on daily wages basis time to time. The sponsoring union in course of hearing again denied the office order issued by the management time to time in the name of the concerned workman for discharging his duties as Asstt. Loading Inspector on daily wages basis. It is the specific claim of the sponsoring union that the concerned workman was terminated from his service but before termination management neither gave him any notice under Section 25F of the I.D. Act, 1947 nor they paid any retrenchment compensation to him. It is really astonishing to note that in para-5 of the Written Statement the sponsoring union though has taken that plea of termination of the concerned workman from service did not consider necessary to disclose actually from which date he was terminated from his service by the management. Until and Unless this fact is established beyond reasonable doubt there is no scope to arrive into conclusion that the concerned workman was illegally, arbitrarily and also violating the principle of natural justice was terminated from his service. At the time of hearing argument Ld. Advocate for the concerned workman has failed to give any satisfactory explanation to this effect. When this picture comes in is there any scope to say in absence of any cogent document that the concerned workman was actually terminated from his service by the management ? On the contrary representative of the management in course of hearing specifically asserted that the concerned workman left his job on 25-8-86 without any intimation in writing to the management. By Office Order marked as Ext. M-1/10 the concerned workman was engaged to work as Asstt. Loading Inspector on N.M.R basis @ Rs. 26.91 per day w.e.f. 1-8-86 to 31-10-86. Considering submission of both sides I find no dispute to hold that in view of this engagement order the concerned workman joined to his duties as Asstt. Loading Inspector on or after 1-8-86. As per the contention of the management it transpires that he abandoned his job w.e.f. 25-8-86 i.e. within the contractual period of his service which was expected to be continued from 1-8-86 to 31-10-86.

Accordingly moot question which has been cropped up here whether the concerned workman was terminated from his service or if he personally abandoned his service. As per para-11 of the Written Statement submitted by the sponsoring union it transpires that the concerned workman approached the management for his reinstatement in service when they terminated him from the post of Asstt. Loading Inspector. In spite of getting ample opportunity the concerned workman has failed to produce a single scrap of paper to show that he submitted representation to the management for his reinstatement after termination of his service. It is seen that in course of hearing representative of the concerned workman neither has been able to satisfy this Tribunal to show actually on and from which date the services of the concerned workman was terminated and which step in black and white he took in support of his claim for his reinstatement in service. Therefore, there is sufficient reason to draw conclusion that the plea taken by the sponsoring union about termination of service of the concerned workman by the management is not at all acceptable. It is seen from the office order marked as Ext. M-1/10 that the concerned workman was re-engaged in the post of Asstt. Loading Inspector on N.M.R. basis at Rs. 26.91 w.e.f. 1-8-86 to 31-10-86. Management did not bring any allegation against the concerned workman in the matter of performance of his job as Asstt. Loading Inspector. Therefore, when there was no allegation question of his termination during contractual period of service did not arise. A such the claim made by the management that the concerned workman had abandoned his service w.e.f. 25-8-86 appears to be acceptable in comparison to the plea taken by the concerned workman that he was terminated from service without mentioning the date of termination.

It is the contention of the sponsoring union that the concerned workman put his attendance for more than 240 days as Asstt. Loading Inspector before his termination of service by the management. Disclosing this fact they submitted that management neither issued any notice under Section 25F of the I.D. Act, 1947 nor paid him any retrenchment compensation before he was terminated from his service. In view of my discussion above I find no dispute to hold that the sponsoring union has failed to substantiate their claim beyond reasonable doubt that it was the management who terminated the concerned workman from his service. In spite of this fact management submitted that the concerned workman was engaged time to time by issuing fresh order as Asstt. Loading Inspector on daily wages basis. Disclosing this fact they submitted that when the engagement of the concerned workman was independent there was no scope to count the continuity of service and in support of that claim they relied on the decision of the Hon'ble Apex Court passed in Civil Appeal No. 5458 of 2004 in connection with Kishore Chandra Samal versus-Divisional Manager, Orissa State Cashew Development Corporation Ltd., Dhenkanal. In the said

decision Their Lordships observed that when orders of engagement made by the respondent corporation specific periods were mentioned, applicability of Section 25F will not attract. The representative of the management also in support of their claim relied on a decision of the Hon'ble Apex Court reported in (2002) 3 Supreme Court Cases 25. In the said decision Their Lordships of the Hon'ble Apex Court observed that where a workman claimed that he had worked for more than 240 days in the year preceding his termination was denied by the employer it was for the claimant to lead evidence to that effect. It has been observed further that workman's affidavit was not sufficient evidence for that purpose. Again in the decision reported in 2006 Lab I.C. 143 Their Lordships of the Hon'ble Apex Court observed the same view i.e. burden of proof is only on the workman that he had worked for more than 240 days in a given year. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily waged earner there will be no letter of appointment or termination. There will also be no receipt or proff of payment. Thus in most cases, the workman (claimant) can only upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment or termination, if any, the wage register, the attendance register etc. Drawing of adverse inference ultimately would depend thereafter on facts of each case. The above decisions, however, make it clear that mere affidavits or self serving statements made by the workman will not suffice in the matter of discharge of the burden placed by law on the workman to prove that he had worked for 240 days in a given year. The applicability of observation of the Hon'ble Apex Court definitely will come to question if it is proved or established that the concerned workman was terminated from his service. Therefore, before taking into consideration of this fact burden of proof absolutely rests on the sponsoring union to establish that the concerned workman was terminated from service. In view of my discussion above I find no dispute to hold that the sponsoring union has failed to substantiate this claim. Therefore, when they have failed to establish the fact that the concerned workman was terminated from his service question of agitating this fact definitely goes down automatically.

In course of hearing it was agitated by the representative of the concerned workman that interview letter was issued to him to appear before the Interview Board for consideration of his appointment as Asstt. Loading Inspector. It has been submitted by the sponsoring union that there was a gap of only two days in between the date of interview and letter of interview released by the management. Based on this fact the sponsoring union submitted that there was no scope on the part of the concerned workman to appear before the Interview Board to establish his candidature as they did not receive any letter of interview at all. Considering the record it transpires that this

fact was highlighted by both sides. I consider that it is a new story and the same was neither agitated by the sponsoring union in the Written Statement nor by the management in their Written-Statement-cum-rejoinder. As a new fact was highlighted in course of hearing and as that fact is not the subject-matter of reference to answer, I find no scope to make my observation on this issue.

Accordingly on careful consideration of all the facts and circumstances I hold that the sponsoring union has failed to justify their claim with reasonable certainty and for which the concerned workman is not entitled to get any relief. In the result, the following Award is rendered :—

“The termination of the services of Shri Bhupendra Prasad, Asstt. Loading Inspector by the management of Central Coal Supply Organisation SAIL w.e.f. 1-9-87 is justified. Consequently the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का.आ. 2242.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.भा.को.लि. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/प्रम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 15/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-2006 को प्राप्त हुआ था।

[सं. एल-20012/126/2002-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2242.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 15/2002) of the Central Government Industrial Tribunal-cum-Labour Court Dhanbad-II now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 11-5-2006

[No. L-20012/126/2002-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No.2) AT DHANBAD

PRESENT :

SHRI B. BISWAS, Presiding Officer

REFERENCE NO. 65 OF 2002.

In the matter of an Industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

PARTIES : Employers in relation to the management of Patherdhil Colliery of M/s. BCCL and their workmen.

APPEARANCES:

On behalf of the workman : **Mr. S.S.P. Verma**
Advocate.

**On behalf of the Management : Mr. U. N. Lal,
Advocate.**

State: Jharkhand Industry: Coal.

Dhanbad, dated this the 24th April, 2006.

AWARD

1. The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(126)/2002-I.R. (Coal-I) dated the 26th July, 2002.

SCHEDULE

“KYA DHANBAD KO. K. SANGH KII BHARAT
COKINGCOALLIMITED, PATHEREDIH COLLIERY
KEY PRAVANDHTANTRA SEY MANG KI
KARMKAR SHRI AJAD KUMAR SINGHA KO
SAMPLING SUPERVISOR KEY PAD PAR
NIYAMITA KIYA JAYE UCHIT EVAM
NAYASANGAT HAI ? ZADI HA TO KARMKAR
KIS RAHAT KEY PATRA HAI ? TATHA KIS
TARIKH SEY ?”

ANNEXURE

2. The case of the concerned workman according to Written Statement submitted by the sponsoring union on his behalf is as follows :

The sponsoring union submitted that the concerned workman was appointed as Fitter Helper in the year 1981 and thereafter he got his promotion as Fitter and by order dt. 2-9-94 he was upgraded to the post of Sampling Supervisor. They alleged that the management though upgraded the post of the concerned workman as Sampling Supervisor refused to pay wages in that category inspite of submitting repeated representations. They submitted that as the concerned workman is discharging his duties as Sampling Supervisor he is entitled to enjoy the grade of Technical and Supervisor Grade-A as per JBCCI and the Rule established with the management as accepted and accordingly he is entitled to get difference of wages from 2-9-94 and onwards. They atleged that as the management refused to regularise him as Sampling Supervisor he raised an industrial dispute before the ALC(C) which ultimately resulted reference to this Tribunal for adjudication. The sponsoring union accordingly submitted prayer to pass Award directing the management designating him as Sampling Supervisor w.e.f. 2-9-94 with back wages and other consequential reliefs.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the Written Statement submitted on behalf of the concerned workman. They disclosed that the concerned workman was appointed as E.P. Fitter (Excav) Gr.-C and thereafter on transfer joined Eastern Jharia Area and posted at Chandan Open Cast Project Sudamdhidh vide letter No. GM/Per/EJA/75/991/343945 dt. 22-4-99. They categorically denied the fact that the concerned workman was designated as Sampling Supervisor in monthly rated job. They disclosed that by Office Order No. JCC/DNB/P. File/1573 dt. 2-9-1994 the Officer on Special duty authorised the concerned workman, Fitter C.C.O. Dhansar only to draw samples from Wagons loaded at different sidings which job is of Cat. II as per Cadre Scheme. They admitted that the Personnel Manager, by issuing erroneous Office Order designating the concerned workman as Sampling Supervisor w.e.f. 20-9-94. However, said Office order was recalled subsequently. They further submitted that there is no post of Sampling Supervisor as per NCWA and accordingly question of his regularisation in the said post never arose. The post of Quality Control Deptt. as per the cadre scheme is (1) Jr. Chemist in Tech. Grade-D, (2) Asstt. Chemist in Tech. Grade-C, (3) Chemist in Tech. Grade-B and Sr. Chemist in Tech. Gr.-A. They disclosed that he was promoted vide Office Order No. BCCL/A-XI/TC/89/530 dt. 12/16-9-89 from E.P. Fitter Cat. 'D' to E.P. Fitter Cat. 'C' along with others and were kept on probation for one year as per policy of the Company. Thereafter vide Office Order No. BCCL/PA-I/O.O./4277/7470-73 dt. 15-4-99 he was transferred from C.C.O. Dhansar to E.J. Area Bhowra.

They further disclosed that there was embargo on diversion of P.R. and T.R. workmen to monthly rated categories without specific written approval from H. qrs. as per Notice/letter No. D(P)/Sr.ES/F-006/96/76 dt. 18-4-96 issued by the Director (Personnel), BCCL, Koyal Bhawan and No. D(P)/Sr. ES/F-006/96/103 dt. 30-4-96. They categorically submitted that the concerned workman was never re-classified/redesignated as Sampling Asstt./Coal Laboratory Sampling Asstt. He actually remained although in Excavation cadre irrespective of his posting at C.C.O. Dhansar for sometime as per policy of the company. Accordingly they submitted prayer that the claim of the concerned workman for his regularisation as Sampling Supervisor is beyond the purview of cadre scheme and for which he is not entitled to get any relief.

4. POINTS TO BE DECIDED

“KYA DHANBAD KO. K. SANGH KII BHARAT
COKING COAL LIMITED, PATHEREDIH COLLIERY
KEY PRAVANDHTANTRA SEY MANG KI
KARMKAR SHRI AJAD KUMAR SINGHA KO
SAMPLING SUPERVISOR KEY PAD PAR
NIYAMITA KIYA JAYE UCHIT EVAM
NAYASANGAT HAI ? ZADI HA TO KARMKAR
KIS RAHAT KEY PATRA HAI ? TATHA KIS
TARIKHSEY ?”

5. It transpires from the record that the sponsoring union with a view to substantiate their claim examined the concerned workman as WW-1. Management also in support of their claim examined one witness as MW-1. From the evidence of WW-1 i.e. the concerned workman it transpires that the concerned workman joined at Tasra Colliery in the year 1980 as Fitter helper. He disclosed that by order of the management he was designated as Sampling Supervisor at E.I. Area and in that capacity he is working since 1994. The order which the concerned workman relied on in support of his claim during his evidence was marked as Ext. W-1. He disclosed that the post of Sampling Supervisor comes under Technical Grade-A. He submitted that after rendering continuous service as Sampling Supervisor he submitted representation to the management for his regularisation in the said post but management without assigning any reason refused to consider his prayer and for which he raised industrial dispute. On the contrary from the evidence of the management witness it transpires that while the concerned workman was posted at C.C.O. Dhansar area he was authorised to collect samples of coal though his designation was E.P. Fitter. The said authorisation was given on 21-6-95 (Ext. M-6). It has been admitted by this witness that Personnel Manager, C.C.O. Dhansar issued an Office Order dt. 17/18-5-97 (Ext. W-1) in favour of the concerned workman designating him as Sampling Supervisor w.e.f. 2-9-94. It is the specific contention of the management that Personnel manager, C.C.O. Dhansar had no authority to issue such order and for which Chief Personnel Manager (NEE), H. Qrs vide office order dt. 6-4-99 recalled that earlier order issued by the Personnel Manager, C.C.O. Dhansar. The said office order during evidence of MW-1 was marked as Ext. M-2. It is seen that from the office order dt. 12-9-89 (M-8) the concerned was promoted to the post of E.P. Fitter Cat.D along with other workmen. Contention of the management is that there is no scope of switching over of any P.R. or T.R. workman to monthly rated category without specific written approval from Headquarters as per circular dt. 18-4-96 and 30-4-96. The circulars during evidence of MW-1 was marked as Ext. M-9, I have considered the circular and I find that there was embargo of changing diversion of P.R. and T.R. workman to monthly rated category without approval of the H. Qrs. There is no dispute to hold that the concerned workman was designated as T.R. worker. Therefore, as per this circular mentioned above in absence of any specific order from the H. Qrs there was no scope to get his diversion as monthly rated worker in the capacity of Sampling Supervisor. It is the contention of the management that there is no post of Sampling Supervisor as per NCWA and accordingly scope of giving designation to that effect did not arise. They submitted that the concerned workman has claimed his designation as Sampling Supervisor in Technical Grade-A. Management submitted that the post in Quality Control department as per cadre scheme starts from Junior Chemist upto the rank

of Senior Chemist. While Junior Chemist comes under Technical Gr. 'D' Sr. Chemist comes under Tech. Grade-A. To get promotion from Junior Chemist in the post of Senior Chemist a workman must possess B.Sc. in Chemistry and performed job of Asstt. Chemist atleast for 5 years. Therefore, before placing claim to get his posting in Technical Grade-A onus absolutely rests on the concerned workman to establish that he possess requisite qualification as mentioned above. In course of hearing in spite of getting opportunity the concerned workman did not consider necessary to disclose his qualification and competency for getting his entitlement of Technical Grade-A. It is the submission of the management that as there was no post of Sampling Supervisor question of its gradation does not arise. Therefore, the sponsoring union as well as the concerned workman cannot avoid their responsibility to establish existence of the post of Sampling Supervisor in Grade-A. In course of hearing representative of the concerned workman lamentably has failed to produce any paper in support of this claim.

It is fact that initially Personnel Manager, CCO Dhansar by Office Order dt. 17-5-97 designated the concerned workman as Sampling Supervisor. The contention of the management is that the said order which was issued by the Personnel Manager was absolutely illegal and for which the same was recalled by Office Order dt. 6-4-99 (Ext. M-2). Therefore, it speaks clearly that Office order marked as Ext. M-1 by which the Personnel Manager, CCO Dhanbar designated the concerned workman as Sampling Supervisor holds no existence in view of recalling that order by the Headquarter as mentioned above. When Order of Sampling Supervisor issued by the Personnel Manager, CCO Dhansar is not in existence question of getting relief based on that order does not arise. Absolute burden rests on the concerned workman as well as the union to establish that from the post of E.P. Fitter he is legally entitled to get his promotion in Technical Grade-A as Sampling Supervisor. As in course of hearing the sponsoring union has failed to substantiate this vital ingredient, I consider that the claim made by them for the course of the concerned workman appears to be baseless and for which the concerned workman is not entitled to get any relief.

In the result, the following Award is rendered :—

"DHANBAD KO. K. SANGH KI BHARAT COKING COAL LIMITED, PATHERDIH COLLIERY KEY PRAVANDHTANTRA SEY MANG KI KARMAKAR SHRI AJAD KUMAR SINGHA KO SAMPLING SUPERVISOR KEY PAD PAR NIYAMITA KIYA JANA UCHIT EVAM NAYASANGATA NAHI HAI. AATA: KARMAKAR KISI RAHAT KEY PATRA NAHI HAI"

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. अ. 2243.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुधंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, धनबाद II के पंचाट (संदर्भ संख्या 34/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-2006 को प्राप्त हुआ था।

[सं. एल-20012/198/2004-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2243.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 34/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 11-5-2006.

[No. L-20012/198/2004-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 34 of 2005

PARTIES:

Employers in relation to the management of Bastacolla Area of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : None

On behalf of the employers : Mr. U. N. Lal, Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 24th April, 2006

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/198/2004-IR(C-1), dated the 24th March, 2005

SCHEDULE

“Whether the demand of the Dhanbad Colliery Karmachari Sangh from the management of BCCL Bastacolla Area that Shri Ram Babu Mallah may be regularised as Shovel Operator is justified ? If so, to what relief is the workman entitled and from what date ?”

2. In this case neither the concerned workman nor his representative was found present on call. Management however, made appearance through their authorised representative. It transpires from the record that registered notices and show cause notice were issued to the concerned workman/sponsoring union consecutively. In terms of Rule 10(B) of the I.D. Central Rules, 1957 it is mandatory on the part of the concerned workman/sponsoring union to file Statement of claim, list of reliances and witnesses, relevant documents within 15 days from the date of receipt of the order of reference. The concerned workman/sponsoring union not only violated the above rules but also even did not concerned workman/sponsoring union not consider necessary to respond to the notices issued this Tribunal. Gesture of the workman/sponsoring union if is taken into consideration will expose clearly that they are not interested to proceed with the hearing of this case. In the circumstances this tribunal also finds no ground to adjourn the case *suo motu* for days together. Hence, the case is closed and a ‘No dispute’ award is passed in this reference presuming non-existence of any industrial dispute between the parties.

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. अ. 2244.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुधंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय धनबाद II के पंचाट (संदर्भ संख्या 78/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-2006 को प्राप्त हुआ था।

[सं. एल-20012/164/2002-आईआर(सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2244.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 78/2001) of the Central Government Industrial Tribunal-cum-Labour Court Dhanbad II as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 11-5-2006.

[No. L-20012/164/2002-IR (C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD
PRESENT :

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

Reference No. 78 of 2002

PARTIES :

Employers in relation to the management of Bhowra OCP
of M/s. BCCL and their workmen.

APPEARANCES :

On behalf of the workman : Mr. M.N. Rawani, Ld.
Advocate

On behalf of the employers : Mr. U.N. Lal, Ld. Advocate
State : Jharkhand Industry : Coal

Dated, Dhanbad, the 24th April, 2006

AWARD

The Government of India, Ministry of Labour, in
exercise of the powers conferred on them under Section
10(1)(d) of the I.D. Act, 1947 has referred the following
dispute to this Tribunal for adjudication vide their Order
No. L-20012/164/2002-IR(C-I), dated 7-10-2002.

SCHEDULE

“Whether the action of the management of BCCL,
Bhowra OCP in not granting Smt. Manjoo Bourin,
the benefit of VRS(F) is just, fair and legal? If not, to
what relief is the workman or her dependent
entitled?”

2. The case of the concerned female worker
according to written statement submitted by the sponsoring
union on her behalf in brief is as follows:—

The sponsoring union submitted that concerned
female worker Smt. manju Bourin was a permanent wagon
loader at Bhowra O.C.P. They submitted that as per V.R. (F)
Scheme she submitted application for employment to her
son Kartick Bouri in the month of March 1999 and her said
application was forwarded by colliery management to the
competent authority on 27-7-1999 wasting four months time.

They disclosed that her application was not
considered by the competent authority taking the plea that
she had crossed the upper age limit of 55 years as on
2-3-2000.

They submitted that the said scheme was circulated
on 24-3-1999 and at that time she was below 55 years of age
and submitted application opted for her voluntary
retirement well before crossing her age of 55 years.

They alleged that management illegally and arbitrarily
violating the principle of natural justice refused to provide

employment to her son accepting her resignation under
the said scheme and for which she raised Industrial Dispute
which ultimately resulted reference to this Tribunal for
adjudication.

3. Management on the contrary after filing written
statement cum rejoinder have denied all the claims and
allegations which the sponsoring union asserted in the
written statement submitted on behalf of the concerned
female worker.

They submitted that the concerned workman was
posted at No.4, Siding, Bhowra(N) OCP as wagon loader.
Her date of birth as per record of the company was
2-3-1945. They disclosed that in response to that VR(F)
Scheme the said worker submitted her application which
was forwarded to Head Quarter, i.e., Koyla Bhawan.
Thereafter her case was examined and during scrutiny it
was detected that the said worker crossed her age limit of
55 years as on 2-3-2000 and accordingly Personnel Manager
(MP& R), Koyla Bhawan vide his letter no. BCCL/PA-11/
SPL. VRS(F)/ETA/2000/9744 dt. 22/23-5-2000 regretted to
consider her prayer. She thereafter continued to her
employment without hinderance or stoppage.

They submitted that the said special VR(F) Scheme
was introduced temporarily for those who had below the
age of 55 years i.e. precondition for acceptance of
resignation. As the concerned female worker by that time
crossed the stipulated age mentioned in the said scheme
there was no scope for acceptance of her application and
for which they submitted that the competent authority
neither committed any illegality nor took any arbitrary
decision in rejecting her claim.

Management accordingly submitted prayer to pass
award rejecting the claim of the concerned female worker.

4. Points to be decided

“Whether the action of the management of BCCL,
Bhowra OCP in not granting Smt. Manjoo Bourin,
the benefit of VRS(F) is just, fair and legal? If not, to what
relief is the workman or her dependent entitled?”

5. Finding with reasons

It transpires from the record that the sponsoring
union with a view to substantiate their claim examined one
witness as W.W. I. Management also in support of their
claim examined one witness as M.W. I.

Considering the evidence on record I find no dispute
to hold that the concerned female worker was posted at
Bhowra O.C.P. as wagon loader. It is admitted fact that
management launched a Special Voluntary Scheme for the
Female employees of B.C.C.L below the age of 55 years to
opt for retirement with facility to provide employment to
their sons. The said scheme was circulated by Office order
No. GM-PER : EJ : 54 : 99 : 44 10-15 dated 12/13-5-1999 Exh.
M-3. As per the said scheme primary condition was that
the female workman who will opt for such retirement will be
below 55 years of age.

It is the contention of the concerned workman that the concerned female worker in response to that scheme submitted application to the local management furnishing all requisites as per claim opting for her voluntary retirement with prayer for employment of her son. M.W. 1 during his evidence admitted that the application of the said female worker along with other workers was forwarded to Head quarter, i.e., Koyla Bhawan vide letter No. PS/BH/OCP/99/965 dt. 26/27-7-1999 for consideration. It has been specifically submitted by the sponsoring union that the concerned female worker was below 55 years of age when she submitted that application. They further submitted that in spite of eligibility accrued by her and also in spite of submitting application before her attaining the age of 55 years management taking the plea of over age rejected her application illegally and in a most arbitrary way.

It has been asserted by the management that date of birth of the concerned workman as per official record was 2-3-1945. They submitted that as the said female worker crossed 55 years as on 2-3-2000 her application for voluntary retirement and employment of her son in her place was rejected.

Referring clause 14 (iii) of the Scheme representative of the management submitted that any application can be rejected by the management and employment may not be given to the dependent without assigning any reason. Such provision empowers the management to reject or not to consider application of any worker and for which they are not liable to assign any reason. While this provision is in existence there is least scope to make any agitation if prayer of any workman is not considered without assisgning reason. Here in the instant case the picture appears to be quite different. Management did not reject the application within the ambit of clause 14 (iii) of the Scheme. Actually they rejected the application of the concerned female worker taking the plea that she crossed 55 years of her age on 2-3-2000. It is not the case of the management that the concerned female worker submitted her application after 2-3-2000 i.e. after crossing 55 years of her age. Considering the relevant papers makred as Exht. M-1 & M-3 which the management refied on it has been exposed very clearly that she submitted her application under the said scheme while she was 54 years old. Her said application was forwarded to Head Quarter in the month of July 1999, i.e. long before attaining her 55 years of age. Clause 13 of the said Scheme speaks clearly that G.M./H.O. D. will immediately forward such application to the G.M. Personnel at H. Qr. with his recommendation. It will be the responsibility of the Area Personnel Manager and the officers of the non executive establishment Section at the H. Qrs. to put up the application to the General Manager/HOD after scrutiny by the respective committee. Clause 14 of the said scheme speaks that G. M. (Personnel) will get those applications processed through the man power cell at the H. Qrs. and convey the approval of the

competent authority to the GM/HOD within 15 days. Therefore according to this Circular all process for acceptance of V. R. of any female work is expected to be completed within one month of the receipt of the application by the H. Qrs. Here in the instant case the Project Officers, Bhowra O.C.P forwarded the application of the said female worker (Exht. M-1) in the month of July 1999 when she was 54 years 3/4 months old. It is really curious to note that after a lapse of 8/9 months of the receipt of the said application the competent authority rejected her prayer taking the plea that she crossed 55 years as on 2-3-2000. Therefore it speaks clearly that ignoring directives given in clause 13 & 14 of the Circular to dispose of the application of the female workers the official of the management preserved the same in cold storage and in one fine morning they rejected that application taking the plea that she crossed 55 years of her age on 2-3-2000. This act of the management may be considered as a glaring example how they deal with the cases of the workmen.

In course of hearing the representatives of the management submitted that the said female worker was not prejudiced for rejection of her application as she was allowed to remain in service and as she did not sustain any financial loss. This submission made by the representative of the managements far from any satisfactory reasons to accept. Definitely there would no reasons to challenge rejection of the prayer of voluntary retirement if it was made under clause 14 (iii) of the circular. Management have made specific ground, i.e. the ground of over age while her petition was considered and rejected. It is to be looked into if that application was made by her when she crossed her stiputed age. In view of discussion above it is clear that she was far below 55 years of her age when that application was submitted. Here in the instance case the fault which management committed intended to be shifted on the shoulder of the said female worker. Considering all pros and cons it is evident that management made an offer to the female worker and the said offer was accepted by her. She submitted her application accepting the conditions made by the management and management, until and unless, any contrary is proved is bound to accept that offer. there is sufficient reasons to believe that for illegal and arbitrary decision of the management the said female worker was prejudiced very seriously as her son was deprived of getting her employment as per the scheme launched. This act of the management definitely caused serious prejudice to the interest of the concerned female worker.

Accordingly, in view of my discussion above I hold that for inactiveness on the part of the management the son of the said female worker was deprived of getting his employment though he had no fault on his part. In the circumstance Kartick Bouri, the son of the concerned female worker deserves his employment under the management.

In the result the following award is rendered.

“ That the action of the management of BCCL Bowra OCP in not granting Smt. Manjoo Bourin, the benefit of VRS(F) was not just, fair and legal.

Consequently Kartick Bouri, S/o Smt. Manjoo Bourin is entitled to get employment under the management. Management, accordingly, directed to provide employment to Kartick Bouri S/o Smt. Manjoo Bourin within three months from the date of publication of the award in the Gazette of India.

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. अ. 2245.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसारण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/प्रम न्यायालय, धनबाद-II के पंचाट (संदर्भ संख्या 49/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-06 को प्राप्त हुआ था।

[सं. एल-20012/773/1997-आई आर(सी-1)]

एस.एस. गुप्ता, अधर सचिव

New Delhi, the 15th May, 2006

S.O. 2245.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 49/99) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbad-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 11-5-2006.

[No. L-20012/773/1997-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 49 OF 1999

PARTIES : Employers in relation to the management of Gopalichak Colliery of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the workman : Mr. S. N. Goshwami, Ld. Advocate.

On behalf of the employer : Mr. N. Nath, Ld. Advocate.

State : Jharkhand Industry : Coal

Dhanbad, Dated the 24th April, 2006

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No.L-20012/773/97-IR(C-I), dated, the 18th January, 1999.

SCHEDULE

“Whether the action of the management of Gopalichak Colliery of M/s. BCCL in not providing employment to Sri Arjun Thakur, on the basis of 75 days during the period from 1982-85 as per bi-partite settlement dt. 13-2-1997 is justified ? If not, to what relief the workman concerned is entitled ?”

2. The case of the concerned workman according to written statement submitted by the sponsoring union on his behalf in brief is as follows :

The sponsoring union submitted that the concerned workman was initially engaged by the management of Gopalichak Colliery under Kusunda Area to perform the job of Stone cutting, Dyke cutting, explosive carrier, coal cutting, line cutting, tyndels etc. as co-operative mazdoor along with five other workmen in the year 1982. He used to work under direct control and supervision of Mining Sirdar, overman and Colliery Manager in the underground and it was the management who would supply all instruments to perform the said jobs. They submitted that management stopped his work in the year 1985 without giving any notice though he worked continuously during the period from 1982 to 1985. Accordingly they submitted representations to the management and after discussion with the union they agreed to regularise them and for which they were asked to submit biodata. The sponsoring union submitted that though the other workmen submitted biodata the concerned workman failed to furnish the same and for which management neither provided any employment to him nor he was allowed to resume his duty. They submitted that the services of other workmen were however regularised by the management.

They submitted that as per bi-partite settlement when the other workmen who put their 75 days attendance during the period from 1982 to 1985 were regularised management is liable to regularise the concerned workman to his service on the same principle particularly when the job performed by him was permanent and perinial in nature. They alleged that they were compelled to raise Industrial dispute for conciliation when inspite of submitting representation management refused to regularise him in his service.

The sponsoring union accordingly submitted prayer to pass award directing the management to reinstate the concerned workman to his service with full back wages and other consequential reliefs.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workman.

They submitted that in the year 1986 the sponsoring union raised an Industrial Dispute on behalf of the concerned workman and five other workmen for their regularisation in service based on a circular issued by the management dt. 22/23-12-1986 for filling up all vacancies of minor/loader who put their attendance for 75 days.

They submitted that on scrutiny of official papers it was found that the concerned workman and another workmen never worked under the management as their signature were not found in Form 'E' register maintained in the colliery office for recording attendance of the underground workmen. As the attendance of four other workmen were found they were absorbed by the management on the basis of settlement entered into between the union and the management. They disclosed that at that relevant time, i.e., in 1986 the concerned workmen did not raise any Industrial Dispute challenging that settlement. On the contrary through present sponsoring union he has raised this dispute after a decade when that circular was withdrawn by the management by issuing a circular in the year 1992.

Management submitted that the claim placed by the sponsoring union is not tenable in the eye of law and for which the concerned workman is not entitled to get any relief.

4. Points to be decided

"Whether the action of the management of Gopalichak Colliery of M/s BCCL in not providing employment to Sri Arjun Thakur, on the basis of 75 days during the period from 1982-85 as per bipartite settlement dt. 13-2-1997 is justified ? If not, to what relief the workman concerned is entitled ?"

5. Finding with reasons

It transpires from the record that inspite of giving sufficient opportunity the sponsoring union has failed to adduce any evidence with a view to substantiate the claim of the concerned workman. Accordingly, management also declined to adduce any evidence. Therefore, considering the pleadings of both sides let it be considered if the claim of the sponsoring union based on substantial footing or not and also if he is entitled to get any relief in view of his prayer.

As per facts disclosed in the pleading of the sponsoring union it transpires that the concerned workman along with five other workmen was engaged by the management to perform different jobs in the underground which were permanent and pernnial in nature in the year 1982 and worked in that capacity till 1985. Their contention

is that management without issuing any notice stopped them from work. They further disclosed that those workmen were engaged by the management to perform works being member of Co-operative Society. It has been further disclosed by him that thereafter the sponsoring union submitted representation to the management for their absorption in view of circular issued by the management dt. 22/23-12-1986 but as the management refused to do so they raised an Industrial Dispute before RLC(C), Dhandad.

It is admitted fact that in the midst of hearing of the conciliation proceeding there was a bipartite settlement in between the sponsoring union and the management and as per that settlement management agreed to regularise the services of four workmen and accordingly they were absorbed. management refused to regularise the service of the concerned workman and another workmen taking the ground they were never on the roll of the Company and did not perform job for 75 days during the period from 1982-1986. However, as per settlement liberty was given to contest that case before the conciliation officer. It is the specific allegation of the management that after a decade over the self same issue the sponsoring union again raised Industrial Dispute which has no basis at all particularly when that circular of 1986 was withdrawn by another circular dt. 25/28-9-92.

Considering the facts disclosed in the pleadings of both sides and also considering the bipartite settlement a copy of which is found to be lying in the record there is no dispute to hold that over regularisation of six workmen including the concerned workman the sponsoring union raised an Industrial Dispute. As per the said bipartite settlement though management agreed to regularise four workmen in the service did not agree to regularise the concerned workman and another workmen. However, liberty was given to contest that conciliation proceeding by them.

In course of hearing the sponsoring union has failed to produce any relevant paper to show if those two workmen contested the conciliation proceeding and if so what was the finding of the said proceeding. It is seen that over the self same issue the sponsoring union for the second time has raised Industrial Dispute without explaining any reason. As they have failed to assign any reason it should be considered that they have been estopped from raising such dispute further.

Moreover, they have failed to assign any cogent reason what was the ground for raising Industrial Dispute after a lapse of such long years.

It is the specific contention of the management that the concerned workman was never in the roll of the Company and for which question of their absorption in the service in view of circular as referred to above did not arise. It is the claim of the sponsoring union that management engaged the concerned workman to perform

certain permanent and pernnial job in the underground of Gopalichak Colliery being member of cooperative along with others and he was in the roll of the management from 1982-86.

Therefore burden rest on the sponsoring union to establish that the concerned workman being a mamber of cooperative was engaged in the service of the management. Secondly he remained in service of the management from 1982-86. It is seen that inspite of getting ample opportunity the sponsoring union has failed to produce a single scrap of paper to show that being a member of cooperative he was engaged by the management.

It is the claim of the sponsoring union that from 1982-86 the concerned workman was in the roll of the management. It has been admitted by the sponsoring union that the concerned workman was engaged to perform certain permanent and pernnial job in the underground. Before entering in the underground it is compulsory for each worker to put his attendance in the Form 'C' register. The sponsoring union has failed to produce any cogent paper to establish that the concerned workman worked in the underground. When the concerned workman was engaged by the management being a member of cooperative they can not avoid their responsibility to produce wage slip or any kind of cogent paper to show that wages was paid to him for rendering his job in the underground.

It is seen that excepting the claim placed by the sponsoring union in the pleading they have failed to produce a single scrap of cogent paper to show that concerned workman was engaged by the management in the year 1982 to perform certain permanent and pernnial jobs in the underground. They have also failed to produce any authentic evidence to establish that during the period from 1982-86 the concerned workman put his attendance for 75 days in a year.

It is to be borne in mind that facts disclosed in the pleading cannot be considered as substantive piece of evidence without its corroboration. Therefore, based on the facts disclosed therein it is not possible to uphold their claim. Accordingly, as the sponsoring union has lamentably failed to establish the claim of the concerned workman and for which he is not entitled to get any relief.

In the result the following award is rendered:

"That the action of the management of Gopalichak Colliery of M/s BCCL in not providing employment to Sri. Arjun Thakur on the basis of 75 days attendance during the period from 1982-85 as per bipartite settlement dated 13-2-1987 was justified.

Consequently the concerned workman named above is not entitled to get any relief."

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2246.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार सी.सी.एल. के प्रबंधात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम्भ न्यायालय, धनबाद II के पंचाट (संदर्भ संख्या 132/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-06 को प्राप्त हुआ था।

[सं. एल-20012/131/2000-आई आर(सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2246.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 132/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Dhanbad II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CCL and their workmen, which was received by the Central Government on 11-5-06.

[No. L-20012/131/2000-IR (C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 132 OF 2000

PARTIES:

Employers in relation to the management of Coke Oven Plant, Giridih Area of M/s CCL and their workmen.

APPEARANCES:

On behalf of the workman : Mr. S.N. Goswami, Ld.
Advocate

On behalf of the employers : Mr. D.K. Verma, Ld.
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 3rd April, 2006

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/131/2000-IR(C-1), dated, the 27th September, 2000.

SCHEDULE

"Whether the action of the management of Coke Oven Plant, Giridih Area of M/s C.C.L in not

regularising Shri Basudeo Rai, as Gr. III Clerk is justified ? If not, to what relief is the concerned workman entitled ?”

2. The case of the concerned workman according to written statement submitted by the sponsoring union on his behalf in brief is as follows:

The sponsoring union submitted that the concerned workman was appointed as piece rated Grade III Soft Coke Manufacturer/Wagon Loader on 13-5-1986. They submitted that as the job of soft Coke manufacturing was stopped and manual loading of coal was replaced by mechanical loading he was engaged in Time rated job in Coke oven Plant.

They disclosed that later on management converted him from Piece rated to time rated category I worker and as he possessed the Certificate of Praveshika, Hindi Vidyapith, Deoghar (Bihar) which is equivalent to Matric, he was deputed to do clerical job w.e.f. 1-1-1990. They submitted that since the said date he is rendering his service to the management as clerk grade III.

It has been submitted by the sponsoring union that after rendering continuous five years service in the post of clerk grade III, the concerned workman submitted representation to the management for his regularisation in the post of clerk Grade III. They submitted that his said representation was duly recommended by the Superintendent, Coke Oven Plant, CCL, Giridih and referred to C.C.L. HQR. Ranchi for consideration but to no effect and for which through sponsoring union he raised an Industrial Dispute before ALC(C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication.

The sponsoring union accordingly submitted prayer to pass award directing the management to regularise the concerned workman in the post of clerk grade III with effect from 1-1-1990 with full benefits.

3. Management on the contrary after filing written statement cum rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workman.

They submitted that the concerned workman was appointed as piece rated makers as wagon loader and posted at Khandiha Siding to work as Soft Coke manufacture/wagon loader and after completion of vocational training he was regularised as Cat. I worker w.e.f. 1-1-1990 and since then he is working in that capacity.

They categorically denied the fact that the concerned workman was deployed by the management to work in clerical grade III. They also submitted that the concerned workmen does not possess educational qualification which is required for the post of clerk and knowing fully well of this fact the sponsoring union has placed a baseless claim

and accordingly submitted prayer to pass award rejecting their claim.

4. POINTS TO BE DECIDED.

“Whether the action of the management of Coke Oven Plant, Giridih Area of M/s C.C.L in not regularising Sri Basudeo Rai, as Gr. III Clerk is justified ? If not, to what relief is the concerned workman entitled ?”

5. FINDING WITH REASONS

It transpires from the record that the sponsoring union inspite of getting sufficient opportunity did not consider necessary to adduce any evidence on their part to substantiate the claim of the concerned workman. As the sponsoring union failed to adduce any evidence management declined to adduce any evidence on their part.

Accordingly, considering the facts disclosed in the pleadings of both sides let it be considered if the claim of the sponsoring union stands on stable footing or not.

It is admitted fact that the concerned workman was appointed as piece rated wagon loader at Khandiha siding by the management and after completion of vocational training he was regularised as category I worker w.e.f. 1-1-1990. It has been submitted by the sponsoring union that as the concerned workman passed Praveshika Examination which is equivalent to Matriculation Examination from Hindi Vidyapith, Deoghar he was deputed by the management to perform clerical job w.e.f. 1-1-1990. Sponsoring union further submitted that the concerned workman continuously for five years performed his duties as clerk and thereafter he submitted representation to the local management for his regularisation in the post of clerk Gr. III. His said representation though was forwarded to C.C.L. Head Quarter at Ranchi for consideration no fruitful result was yielded.

Contention of the management is that the concerned workman was regularised as category I mazdoor w.e.f. 1-1-1990 after completion of his vocational training and for which the claim which has been placed by the sponsoring union that he was deputed by the management to work as clerk from the said date finds no basis at all. Management further submitted that as the concerned workman did not possess minimum requisite academic qualification for the post of clerk. Question never arose to depute him to work as clerk.

In view of such circumstances initial burden of proof rests on the sponsoring union to establish that with effect from 1-1-1990 the concerned workman was deputed by the management to work as clerk. They also can not avoid their responsibility to establish that in the said post of clerk he worked continuously for five years. It is also required to be established that he possessed requisite academic qualification to work as clerk at that relevant point of time. It is to be borne in mind that concerned workman

was category I mazdoor and according to management he was regularised in the said post with effect from 1-1-1990 though denied by the sponsoring union. To substantiate such claim the sponsoring union inspite of getting ample opportunity has failed to produce a single scrap of paper. It is also astonishing to note that the sponsoring union did not consider necessary to produce certificate of the concerned workman to show that he had requisite qualification at that point of time when he alleged to be deputed as clerk.

It is to be borne in mind that facts disclosed in the pleading can not be considered as substantive piece of evidence until & unless the same is substantiated by cogent evidence.

It is the specific claim of the sponsoring union that the management utilised the service of the concerned workman as clerk for years together. Therefore, they can not avoid their responsibility to establish such claim. On careful consideration of all the facts and circumstances I find no hesitation to say that the sponsoring union has lamentably failed to establish the claim of the concerned workman. accordingly, he is not entitled to get any relief.

In the result the following award is rendered:

“Whether the action of the management of Coke Oven Plant, Giridih Area of M/s C.C.L in not regularising Sri Basudeo Rai, as Gr. III Clerk is justified ?

Consequently concerned workman named above is not entitled to get any relief”

B. Biswas, Presiding Officer.

नई दिल्ली, 15 मई, 2006

कर. आ. 2247.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधालय के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय धनबाद II के पंचाट (संदर्भ संख्या 18/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-2006 को प्राप्त हुआ था।

[सं. एल-20012/459/1993-आईआर(सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2247.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 18/95) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Dhanbad II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 11-5-06.

[No. L-20012/459/1993-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 18 OF 1995

PARTIES: Employers in relation to the management of M/s. BCCL and their workmen.

APPEARANCES:

On behalf of workman : None

On behalf of the employer : Mr. S. N. Sinha,
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 18th April, 2006

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/459/93-IR(Coal-I), dated, the 10th February, 1995.

SCHEDULE

“Whether the action of the management of M/s BCCL, Koyala Bhawan, Dhanbad compelling for registration in Bihar Council of Pharmacy, Patna and threatening to terminate the services of the workman, Shri Harihar Singh working as Sr. Pharmacist is justified ? If not, to what relief the workman is entitled to ?”

2. The case of the concerned workman according to written statement submitted by the sponsoring union on his behalf in brief is as follows:

They submitted that the concerned workman was originally appointed as Pharmacist in Technical and Supervisory Grade-D by the management by letter dt. 11-5-87 considering his qualification and experience in Army. They disclosed that the concerned workman was retired army personnel and he had put in 17 years continuous service in the army as Pharmacist. It has been submitted, by them that after joining to the post of Pharmacist management promoted him to the post of Pharmacist Grade-D by an order dt. 23-2-91 and in Grade B w.e.f. 1-1-90.

They alleged that by letter dt. 12-8-92 management asked him for renewal of Pharmacy certificate with Bihar Pharmacist Council, Patna. After receiving the said letter he informed the management that as per cadre scheme there was no need for any revalidation of Pharmacy

Certificate on the ground that Army personnel are exempted from getting registration of their certificates with State Pharmacist Council. They disclosed that the concerned workman was selected as Pharmacist after interview on the basis of his experience in the Army as per cadre scheme. The certificates of the Diploma holders are only registered/revaluated with the State Pharmacist Council. Accordingly he submitted representation to that effect to the management wherein Chief Medical Officer also passed a remark on 20-11-92 wherein and whereby he has stated specifically that for ex-servicemen there is no need of validation/registration of the Certificate with the State Pharmacy Council but they without accepting his representation started threatening him to terminate his service on that ground illegally arbitrarily and violating the principle of natural justice and for which he raised an Industrial Dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the Written Statement filed on behalf of the concerned workman.

They submitted that the concerned workman was appointed as Pharmacist in Grade D by letter dt. 11-5-1987 on probation. They disclosed that at the time of his interview the concerned workman submitted a certificate of proficiency granted by Army Medical Corps in which it was mentioned that he worked as Pharmacist from 24-2-65 to 6-4-1982 and he had acquired higher degree of proficiency in his trade. It appears that the Selection Committee was very much influenced by the Certificate of Proficiency granted by the Army Medical Corps and did not look into the legal aspect and recommended for appointment of the concerned workman as Pharmacist.

They submitted that in course of verification of certificate of Pharmacist it was found that the concerned workman did not possess the registration certificate from Bihar Council under the provisions of Pharmacy Act., 1948. They contended that a person must get himself registered as Pharmacist under Sec. 31 of the Pharmacist Act, 1948 with the State Council in which he is to carry out his profession of Pharmacy. A person without possessing the registration certificate is not entitled to work as Pharmacist under any Medical Officer in a hospital or in any Nursing Home or in any Medical shop situated within the territorial boundary of that State. The establishments of the company are situated within the State of Bihar and the concerned person is required to get himself registered under the Bihar Council of Pharmacy. They submitted that the provision of Sub-section 2 of Section 42 of the Pharmacy Act, 1948, make it an offence to appoint and permit any person to work as Pharmacist who does not possess registration certificate from the State Council. As the concerned workman does not possess the registration certificate of

Pharmacist, he could not be allowed to work on the jobs of Pharmacist.

They admitted that the management has itself liable for criminal action for appointing the concerned person as Pharmacist and permitting him to work as Pharmacist in the hospital. Accordingly, considering seriousness of the irregularity they asked the concerned workman to get himself registered as Pharmacist with the Bihar Council of Pharmacist as per the provisions of Pharmacy Act, 1948. The concerned workman expressed his inability to get himself registered as his certificate granted by the Army Medical Corps has not been recognised by the Bihar Council of Pharmacist for his registration as per the provision of Section 31 of the Pharmacy Act, 1948. They submitted that management cannot take any work from him as Pharmacist in view of his legal disability to perform that job. They alleged that concerned workman knowing fully well of his position denied to take steps for getting his certificate registered under the appropriate authority and for which management holds every right to terminate his service. They emphatically submitted that no person can be appointed to a statutory post unless he holds the statutory certificate and the requisite licence enabling him to carry on the jobs in accordance with the provision of law.

They disclosed that the sponsoring union has raised the present dispute with a view to compel the management to continue doing the offence as provided under Section 42 of the Pharmacy Act, 1948. Accordingly they submitted prayer to pass award rejecting the claim of the sponsoring union.

4. POINTS TO BE DECIDED.

“Whether the action of the management of M/s. BSSL, Koyal Bhawan, Dhanbad compelling for registration in Bihar Council of Pharmacy, Patna and threatening to terminate the services of the workman, Shri Harihar Singh working as Sr. Pharmacist is justified ? If not, to what relief the workman is entitled ?”

5. FINDING WITH REASONS

It transpires from the record that management with a view to substantiate their claim examined one witness as MW-1. As the sponsoring union failed to complete the evidence of WW-1 inspite of giving sufficient opportunity that part of evidence adduced by him was expunged by order No. 49 dated 21-11-05.

Considering the materials on record there is no dispute to hold that the concerned workman was appointed by the management as Pharmacist in Technical and Supervisory Grade 'D' by letter dt. 11-5-87. Previous to his joining in this service he was a Pharmacist in the Indian Army and a certificate was issued by the Indian Army to him about performance of his duties as Pharmacist. It is the contention of the sponsoring union that on the basis of his service and experience as

Pharmacist he submitted his application for the post of Pharmacist and not only got his appointment in that capacity under the management but also has got his promotion in Grade 'C' and Grade 'B'. The dispute actually cropped up when management asked him to submit pharmacy certificate of renewal/registration under Bihar Pharmacist Council, Patna. The concerned workman, however, expressed his inability to resubmit such certificate as demanded by the management. It has been contended by the sponsoring union that the concerned workman being an ex-serviceman was selected on the basis of his experience as Pharmacist as per cadre scheme. They further submitted that certificates of the Diploma holders are only registered/revalidated with the State Pharmacist Council.

Considering submission of the sponsoring union it transpires clearly that the concerned workman had no certificate of Diploma in Pharmacy. He only had a proficiency certificate to perform the job of Pharmacist issued by the Indian Army and he submitted that proficiency certificate along with his application and the selection committee considering that certificate selected him for the post of Pharmacist. It is the contention of the management that selection committee did not consider if that proficiency certificate got its registration under any council of Pharmacist under Pharmacy Act, 1948. It has been submitted by the management that a person must get himself registered as Pharmacist Under section 31 of the Pharmacy Act, 1948 with the State Council in which he is to carry out his profession of Pharmacy. They disclosed that, a person without possessing the registration certificate is not entitled to work as Pharmacist under any Medical Officer in any hospital or other medical establishment. It is the contention of the management that as their establishments are situated within the State of Bihar the licence/certificate of Pharmacist of the concerned workman is required to be registered under Bihar Council of Pharmacy. They submitted that as per Section 42 of the Pharmacy Act, 1948 it is an offence if any person is appointed and permitted to work as Pharmacist who does not possess registration certificate from the State Council. As such according to this provision the concerned workman is not at all eligible to work as Pharmacist as he failed to get registrations of his certificate under the State Council.

It is a admitted fact that in response to advertisement by the management for the post of Pharmacist the concerned workman who is a defence personnel submitted application for his recruitment as Pharmacist. It transpires from the record that requisite qualification for the post of Pharmacist was Matriculation with Diploma in Pharmacy from recognised Institution with three years post qualification experience from recognised Institution. Therefore, it is clear that Diploma in Pharmacy was the prerequisite qualification for selection in the post of Pharmacist. Sponsoring union in para-12 of the Written

Statement categorically submitted that certificates of Diploma holders are only registered/revalidated with the State Pharmacist Council. It has been admitted by the sponsoring union that on the basis of certificate of performance as Pharmacist issued by the Indian Army and also considering his experience to work as Pharmacist he was selected by the management for the post of Pharmacist and for which there was no need for revalidation of Pharmacy certificate by the State Council. It is therefore, clear that without having any Diploma in Pharmacy just on the basis of his experience and a certificate of performance issued by the Indian Army he got his selection under the management as Pharmacist.

It has been admitted by the management in their Written Statement that due to serious fault of the Selection Committee the concerned workman without having any Diploma in Pharmacy just on the basis of a certificate of performance had got his selection in the post of Pharmacist in the company. It is the contention of the sponsoring union that as the post of Pharmacist is a cadre post there is no need for any revalidation of Pharmacy Certificate. This submission of the sponsoring union is absolutely contrary to the provision as laid down in Section 31 of the Pharmacy Act. It has been specifically mentioned by the management that a person without possessing the registration certificate is not entitled to work as Pharmacist. They further submitted that as their establishments are situated within that State of Bihar the concerned workman is required to get himself registered under the Bihar Council of Pharmacy violation to which attracts Section 42 of the Pharmacy Act, 1948 which is considered as penal offence.

It transpires from the record that inspite of getting ample opportunity the sponsoring union did not consider necessary to adduce evidence in support of their claim. They even have failed to show that no revalidation of certificate is required as per Section 31 of the Pharmacy Act as that certificate was issued by the Indian Army. Considering the facts in issue and also considering all materials aspects I find sufficient reason to hold that management was absolutely justified in asking the concerned workman to make registration/revalidation of his certificate under Bihar Council of Pharmacist according to Section 31 of the Pharmacy Act, 1948.

It is not expected that a person who is not qualified to work as Pharmacist will be allowed to work in that capacity violating strict provision of Pharmacy Act, 1948.

In the result, the following Award is rendered :—

"The action of the management of M/s. BCCL, Koyal Bhawan, Dhanbad compelling for registration in Bihar Council of Pharmacy, Patna and threatening to terminate the service of the workman Shri Harihar Singh working as Sr. Pharmacist is justified. Consequently, the concerned workman is not entitled to get any relief."

B. BISWAS, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2248.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद II, के पंचाट (संदर्भ संख्या 19/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-06 को प्राप्त हुआ था।

[सं. एल-20012/458/1993-आईआर(सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2248.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 19/95) of the Central Government Industrial Tribunal-cum-Labour Court Dhanbad II, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL, and their workman, which was received by the Central Government on 11-5-2006.

[No. L-20012/458/1993-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE No. 19 OF 1995

PARTIES: : Employers in relation to the management of BCCL and their workman.

APPEARANCES:

On behalf of the workman	:	None
On behalf of the employers	:	Mr. S.N. Sinha, Advocate.
State	:	Jharkhand
Industry	:	Coal

Dated, Dhanbad, the 18th April, 2006

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(458) 93-I.R.(C-I), dated, the 10th February, 1995.

SCHEDULE

“Whether the action of the management of M/s. BCCL, Koyala Bhawan, Dhanbad of compelling for Registration with Bihar Council of Pharmacy and otherwise threatening to terminate the services of Shri Bimla Shankar Prasad, already working as Sr. Pharmacist in the company is justified? If not, to what relief the workman is entitled to?”

2. The case of the concerned workman according to Written Statement submitted by the sponsoring union on his behalf in brief is as follows:—

They submitted that the concerned workman was originally appointed as Pharmacist in Technical and Supervisory Grade-D by the management by letter dtd. 10-10-86 considering his qualification and experience in Air Force. They disclosed that the concerned workman was retired Air Force personnel and he had put in 15 years continuous service in the Air Force as Pharmacist. It has been submitted by them that after joining the post of Pharmacist management promoted him to the post of Pharmacist Grade 'C' from Pharmacist Grade 'D' by an order dtd. 1-1-90.

They alleged that by letter dtd. 12-8-92 management asked him for renewal of Pharmacy certificate with Bihar Pharmacist Council, Patna. After receiving the said letter he informed the management that as per cadre scheme there was no need for any revalidation of Pharmacy Certificate on the ground that Air Force personnel are exempted from getting registration of their certificates with State Pharmacist Council. They disclosed that the concerned workman was selected as Pharmacist after interview on the basis of his experience in the Air Force as per cadre scheme. The certificates of the Diploma holders are only registered/revaluated with the State Pharmacist Council. Accordingly he submitted representation to that effect to the management wherein Chief Medical Officer also passed a remark on 20-11-92 wherein and whereby he has stated specifically that for ex-serviceman there is no need of validation/registration of the Certificate with the State Pharmacy Council but they without accepting his representation starting threatening him to terminate his services illegally, arbitrarily and violating the principle of natural justice and for which he raised an Industrial Dispute for conciliation which ultimately resulted reference to this Tribunal for adjudication.

3. Management on the contrary after filing Written Statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the Written Statement filed on behalf of the concerned workman.

They submitted that the concerned workman was appointed as Pharmacist in the Technical Grade D by letter dtd. 10-12-1986 on probation. They disclosed that at the

time of his interview the concerned workman submitted Indian Air Force Trade Profession Certificate dtd. 25-9-84 showing that he had acquired higher degree of proficiency in his trade. It appears that the Selection Committee was very much influenced by the Trade Profession Certificate dtd. 25-9-84 granted by the Air Force Medical Corps and did not look into the legal aspect and recommended for appointed of the concerned workman as Pharmacist.

They submitted that in course of verification of certificate of Pharmacist it was found that the concerned workman did not possess the registration certificate from Bihar Council under the provisions of Pharmacy Act, 1948. They contended that a person must get himself registered as Pharmacist under sec. 31 of the Pharmacist Act, 1948 with the State Council in which he is to carry out his profession of Pharmacy. A person without possessing the registration certificate is not entitled to work as Pharmacist under any Medical Officer in hospital or in any Nursing Home or in any Medical shop situated within the territorial boundary of that state. The establishments of the company are situated within the State of Bihar and the concerned person is required to get himself registered under the Bihar Council of Pharmacy. They submitted that the provision of Sub-section 2 of Sec. 42 of the Pharmacy Act, 1948, make it an offence to appoint and permit any person to work as Pharmacist who does not possess registration certificate from the State Council. As the concerned workman does not possess the registration certificate of Pharmacist, he could not be allowed to work on the jobs of pharmacist.

They alleged that the management has made itself liable for criminal action for appointing the concerned person as Pharmacist and permitting him to work as Pharmacist in the hospital. Accordingly, considering seriousness of the irregularity they asked the concerned workman to get himself registered as Pharmacist with the Bihar Council of Pharmacist as per the provisions of Pharmacy Act., 1948. The concerned workman expressed his inability to get himself registered as his certificate granted by the Air Force Medical Corps was not recognized by the Bihar Council of Pharmacist for his registration as per the provision of section 31 of the Pharmacy Act., 1948. They submitted that management cannot take any work from him as Pharmacist in view of his legal disability to perform that job. They alleged that concerned workman knowingly well of his position denied to take steps for getting his certificate registered under the appropriate authority and for which management holds every right to terminate his service. They emphatically submitted that no person can be appointed to a statutory post unless he holds the statutory certificates and the requisite licence enabling him to carry on the jobs in accordance with the provision of law.

They disclosed that the sponsoring union has raised the present dispute with a view to compel the management to continue doing the offence as provided under section

42 of the Pharmacy Act., 1948. Accordingly they submitted prayer to pass award rejecting the claim of the sponsoring union.

4. POINTS TO BE DECIDED

"Whether the action of the management of M/s. BCCL Koyal Bhawan, Dhanbad of compelling for Registration with Bihar Council of Pharmacy and otherwise threatening to terminate the services of Shri Bimla Shankar Prasad, already working as Sr. Pharmacist in the company is justified? If not, to what relief the workman is entitled to?"

5. FINDING WITH REASONS

It transpires from the record that management with a view to substantiate their claimed examined one witness as MW-1. As the sponsoring union failed to complete the evidence of WW-1 in spite of giving sufficient opportunity that part of evidence adduced by him was expunged by order No. 50 dtd. 21-11-2005.

Considering the materials on record there is no dispute to hold that the concerned workman was appointed by the management as Pharmacist in Technical and Supervisory Grade 'D' by letter dtd. 10-12-86. Previous to his joining in this service he was pharmacist in the Indian Air Force and certificate was issued by the Indian Air Force to him about performance of his duties as Pharmacist. It is the contention of the sponsoring union that on the basis of his service and experience as Pharmacist he not only got his appointment in that capacity under the management but also has got his promotion in Grade 'C' and Grade 'B'. The dispute actually cropped up when management asked him to submit pharmacy certificate being renewed/registered under Bihar Pharmacist Council, Patna. The concerned workman expressed his inability to submit such certificate as demanded by the management. It has been contended by the sponsoring union that the concerned workman being an ex-serviceman was selected on the basis of his experiences as Pharmacist as per cadre scheme. They further submitted that certificates of the Diploma holders are only registered/revaluated with the State Pharmacist Council.

Considering submission of the sponsoring union it transpires clearly that the concerned workman had no certificate of Diploma in Pharmacy. He only had proficiency certificate to perform the job of Pharmacist issued by the Indian Air Force and he submitted that proficiency certificate along with his application and the selection committee considering that certificate selected him for the post of Pharmacist. It is the contention of the management that selection committee did not consider if that proficiency certificate was recognised by any council of Pharmacist under Pharmacy Act 1948. It has been submitted by the management that a person must get himself registered as Pharmacist under Section 31 of the Pharmacy Act, 1948

with the State Council in which he is to carry out his profession of Pharmacy. They disclosed that a person without possessing the registration certificate is not entitled to work as Pharmacist under any Medical Officer in any hospital or other medical establishment. It is the contention of the management that as their establishments are situated within the State of Bihar the licence/certificate of Pharmacist of the concerned workman is required to be registered under Bihar Council of Pharmacy. They submitted that as per Section 42 of the Pharmacy Act, 1948 it is an offence if any person is appointed and permitted to work as Pharmacist who does not possess registration certificate from the State Council. As such according to this provision the concerned workman is not at all eligible to work as Pharmacist on his failure to get registrations of his certificate under the State Council.

It is admitted fact that in response to advertisement by the management for the post of Pharmacist the concerned workman who is a defence personnel submitted application for his recruitment as Pharmacist. As it transpires from the record that requisite qualification for the post of Pharmacist was Matriculation with Diploma in Pharmacy from recognised Institution with three years post qualification experience from recognised Institution. Therefore, it is clear that Diploma in Pharmacy was the prerequisite qualification for selection in the post of Pharmacist. Sponsoring union in para-12 of the Written Statement categorically submitted that certificates of Diploma holders are only registered/revaluated with the State Pharmacist Council. It has been admitted by the sponsoring union that on the basis of certificate of performance as Pharmacist issued by the Indian Air Force and also considering his experience to work as Pharmacist he was selected by the management for the post of Pharmacist and for which there was no need for revalidation of Pharmacy certificate by the State Council. It is therefore, clear that without having any Diploma in Pharmacy just on the basis of his experience and a certificate of performance issued by the Indian Air Force he got his selection under the management as Pharmacist.

It has been admitted by the management in their Written Statement that due to serious fault of the Selection Committee the concerned workman without having any Diploma in Pharmacy just on the basis of a Certificate of performance had got his selection in the post of Pharmacist. It is the contention of the sponsoring union that as the post of Pharmacist is a cadre post there is no need for any revalidation of Pharmacy certificate. This submission of the sponsoring union is absolutely contrary to the provision as laid down in Section 31 of the Pharmacy Act. It has been specifically mentioned by the management that a person without possessing the registration certificate is not entitled to work as Pharmacist. They further submitted that as their establishments are situated within the State of Bihar the concerned workman is required to get himself

registered under the Bihar Council of Pharmacy violation to which attracts Section 42 of the Pharmacy Act, 1948 which is considered as penal offence.

It transpires from the record that inspite of getting ample opportunity the sponsoring union did not consider necessary to adduce evidence in support of their claim. They even have failed to show that no revalidation of certificate is required as per Section 31 of the Pharmacy Act as that certificate was issued by the Indian Air Force considering the facts in issue and also considering all material aspects I find sufficient reason to hold that management was absolutely justified in asking the concerned workman to make registration/revalidation of his certificate under Bihar Council of Pharmacist according to Section 31 of the Pharmacy Act, 1948. It is not expected that a person who is not qualified to work as Pharmacist will be allowed to work in that capacity violating strict provision of Pharmacy Act, 1948.

In the result, the following Award is rendered:—

“The action of the management of M/s. BCCL, Koyala Bhawan, Dhanbad compelling for Registration with Bihar Council of Pharmacy and otherwise threatening to terminate the services of Shri Bimla Shankar Prasad, already working as Sr. Pharmacist in the company is justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

ई दिल्ली, 15 मई, 2006

का. अ. 2249.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर में, केन्द्रीय सरकार भ.को.को.लि. के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय धनबाद 1, के पंचाट (संदर्भ संख्या 63/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-5-2006 को प्राप्त हुआ था।

[सं. एल-20012/394/1998-आईआर(सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 15th May, 2006

S.O. 2249.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 63/99) of the Central Government Indus. Tribunal/Labour Court, Dhanbad 1, now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL, and their workman, which was received by the Central Government on 11-5-2006.

[No. L-20012/394/1998-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
(No. I) DHANBAD**

In the matter of a reference under Section 10(1)(d) & (2A) of the Industrial Disputes Act, 1947.

Reference No. 63 of 1999

PARTIES: Employers in relation to the management of Sudamdh Shaft Mines of M/s. BCCL.

AND

Their workmen.

PRESENT:

Shri Sarju Prasad, Presiding Officer.

APPEARANCES:

For the Employers : Shri R.N. Ganguli, Adv.

For the Workmen : Shri R.S. Giri
Shri J.N. Das, Adv.

State : Jharkhand

Industry : Coal.

Dated, 27th April, 2006.

AWARD

By Order No. L-20012/394/98-IR(C-I), dated, 17-4-99, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred by the following dispute for adjudication to this Tribunal :

SCHEDULE

“Whether the demand of the Union from the management of Sudamdh Shaft Mines of M/s. BCCL for protection of wages and fringe benefits of S/Shri D. Dasaundhi and 114 others piece rated workers at the time of fixation of their pay in their respective time rated category is justified? If so, to what relief the concerned workmen are entitled to?”

2. From the record it appears that the case is pending for the evidence of the workmen from 28-4-2003. But despite of several adjournments no evidence has been produced for the last three years. The Advocate of the sponsoring union submits that the workmen is traceless. Therefore, he is not in a position to adduce evidence.

In such circumstances, it appears that the concerned workman has got no interest in prosecuting this case.

In the result, I render a **NO DISPUTE AWARD**.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2250.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार से पी.डब्ल्यू.डी. के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण नं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 58/2005) द्वारा प्रकाशित करती है, जो केन्द्रीय सरकार को 15-5-2006 को प्राप्त हुआ था।

[सं. एल-42012/169/2004-आईआर(सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 15th May, 2006

S.O. 2250.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 58/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Delhi Central Elect. Circle V of CPWD, Asian Games Elect Division CPWD and their workmen, received by the Central Government on 15-05-2006.

[No. L-42012/169/2004-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
NEW DELHI**

I.D. No. 58/2005

Presiding Officer : R.N. Rai

IN THE MATTER OF:—

Md. Feroz Khan,
Through All India CPWD (MRM),
Karamchari Sangathan, 4823,
Balbir Nagar Extension,
Gali No. 13, Shahdara,
Delhi-110 032.

versus

1. The Suprintending Engineer,
Delhi Central Elect. Circle V, CPWD,
R.K. Puram,
New Delhi.
2. The Executive Engineer,
Asian Games Elect. Division,
CPWD, J.N. Stadium,
New Delhi.

AWARD

The Ministry of Labour by its letter No. L-42012/169/2004-IR(C-II) Central Government Dtd. 29-06-2005 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the Superintending Engineer, Delhi Central Elect. Circle V, CPWD, R.K. Puram, New Delhi/The Executive Engineer, Asian Games Elect. Division, CPWD, J.N. Stadium, New Delhi in not granting ACP Scheme benefit to Sh. Md. Feroz Khan, Mechanic/Oerator after completion of 12 years and 24 years of service is legal and justified? If not, to what relief the workman is entitled.”

From perusal of the order sheet it transpires that notices to both the parties have been sent. The management was present. The workman was not present. Notice was again issued but the workman did not appear. No claim statement has been filed.

No dispute award is given.

Date : 11-05-2006.

R.N. RAI, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2251.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.ए.आर.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. II, नई दिल्ली के पंचाट (संदर्भ संख्या 61/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-05-2006 को प्राप्त हुआ था।

[सं. एल-42012/180/2004-आई आर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 15th May, 2006

S.O. 2251.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 61/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of I.A.R.I. and their workmen, received by the Central Government on 15-05-2006.

[No. L-42012/180/2004-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER:
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
NEW DELHI

I. D. No. 61/2005

Presiding Officer : R. N. Rai

IN THE MATTER OF :—

Shri Netra Pal Singh,
Through All India CPWD (MRM),
Karamchari Sangathan,
4823, Balbir Nagar Extension,
Gali No. 13, Shahdara,
Delhi-110032.

Versus

The Director,
I. A. R. I., Pusa,
New Delhi-110012

AWARD

The Ministry of Labour by its letter No. L-42012/180/2004-IR(C-II) Central Government Dt. 30-06-2005 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the demand of All India C.P.W.D. (MRM) Karamchari Sangathan in respect of reinstatement and regularisation of the workman Shri Netra Pal Singh and others in the establishment of IARI Pusa, New Delhi is legal and justified? If yes, to what relief the workman is entitled to and from which date.”

From perusal of the order sheet it transpires that notices to both the parties have been sent. The management was present. The workman was not present. Notice was again issued but the workman did not appear. No claim statement has been filed.

No dispute award is given.

Date : 03-05-2006.

R. N. RAI, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2252.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.ए.आर.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 70/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-05-2006 को प्राप्त हुआ था।

[सं. एल-42012/98/2004-आई आर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 15th May, 2006

S.O. 2252.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 70/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of the Director, I.A.R.I. and their workmen, received by the Central Government on 15-05-2006.

[No. L-42012/98/2004-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER:
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
NEW DELHI

I. D. No. 70/2005

Presiding Officer : R. N. Rai

IN THE MATTER OF:—

Shri Bhag Singh,
Through All India CPWD (MRM),
Karamchari Sangathan,
4823, Balbir Nagar Extension,
Gali No. 13, Shahdara,
Delhi-110032.

Versus

The Director,
I. A. R. I., Pusa,
New Delhi-110012

AWARD

The Ministry of Labour by its letter No. L-42012/98/2004-IR(C-II) Central Government Dt. 04-08-2005 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the demand of All India C.P.W.D. (MRM) Karamchari Sangathan Delhi for reinstatement/regularisation of Shri Bhag Singh in the establishment of IARI Pusa is legal and justified? If yes, to what relief he is entitled.”

From perusal of the order sheet it transpires that notices to both the parties have been sent. The management was present. The workman was not present. Notice was again issued but the workman did not appear. No claim statement has been filed.

No dispute award is given.

Date : 04-05-2006.

R. N. RAI, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2253.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.ए.आर.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 53/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-05-2006 को प्राप्त हुआ था।

[सं. एल-42012/181/2004-आई आर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 15th May, 2006

S.O. 2253.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 53/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2,

New Delhi as shown in the Annexure in the Industrial Dispute between the management of I.A.R.I. and their workmen, received by the Central Government on 15-05-2006.

[No. L-42012/181/2004-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER:
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
NEW DELHI

I. D. No. 53/2005

Presiding Officer : R. N. Rai

IN THE MATTER OF:—

Shri Ranjit Kumar Singh,
Through All India CPWD (MRM),
Karamchari Sangathan,
4823, Balbir Nagar Extension,
Gali No. 13, Shahdara,
Delhi-110032.

Versus

The Director,
I. A. R. I., Pusa,
New Delhi-110012

AWARD

The Ministry of Labour by its letter No. L-42012/181/2004-IR(C-II) Central Government Dt. 29-06-2005 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the demand of All India C.P.W.D. (MRM) Karamchari Sangathan in respect of reinstatement and regularisation of the workman Shri Ranjit Kumar Singh, S/o Shri N. P. Singh in the establishment of IARI Pusa, New Delhi is legal and justified? If yes, to what relief the workman is entitled and from which date.”

From perusal of the order sheet it transpires that notices to both the parties have been sent but none has turned up. Notice was again issued but neither the workman nor the management was present. No claim statement has been filed.

No dispute award is given.

Date : 05-05-2006.

R. N. RAI, Presiding Officer

नई दिल्ली, 15 मई, 2006

का. आ. 2254.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.ए.आर.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 68/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-05-2006 को प्राप्त हुआ था।

[सं. एल-42012/103/2004-आई आर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

नई दिल्ली, 16 मई, 2006

सं. अ. 2256.—आंतरिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधनात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आंतरिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय नं. 2, नई दिल्ली के पंकाट (संदर्भ संख्या 40/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-5-06 को प्राप्त हुआ था।

[सं. यल-12012/56/2001-आई अर(बी-II)]

सौ. गंगधरण, अवक सचिव

New Delhi, the 16th May, 2006

S.O. 2256.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 40/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Punjab National Bank, and their workmen, which was received by the Central Government on 15-5-06.

[No. L-12012/56/2001-IR (B-II)]

C.GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NEW DELHI

R.N. RAI, Presiding Officer : I.D. No.40/2001

IN THE MATTER OF:

Kundan Singh Negi,
S/o. Shri Sunder Singh Negi,
R/o. Block - E, H.No. 908,
Mangolpuri, New Delhi.

VERSUS

Punjab National Bank,
Provident Fund Department,
Rajendra Place,
Vikram Tower,
New Delhi -110008.

AWARD

The Ministry of Labour by its letter No. L-12012/56/2001 IR (B-II) CENTRAL GOVERNMENT DT. 18/22-06-2001 has referred the following point for adjudication.

The point runs as hereunder:—

“Whether the action of the Chief Provident Fund Department, Punjab National Bank, Rajendra Place,

Vikram Tower, Delhi in stopping from duty w.e.f. 05-04-1997 to Shri Kundan Singh Negi who was working in the Canteen of the Bank, instead of regularizing him in the services of the Bank is justified, valid and reasonable? If not, what relief and benefits he is entitled to.”

The workman applicant has filed claim statement. In the claim statement it has been stated that the claimant workman has been working with the management since 1977 as a peon. His last drawn wages were Rs. 2600 per month. The wages were paid to him on vouchers. That the claimant has been performing his duties with honestly, diligently and laboriously giving no chance of any complaint to the management during his entire service tenure. He was never been charge sheeted whatsoever.

That the management neither provided legal facilities nor regularized the workman since he demanded time to time in writing letter attached herewith but the management got annoyed with him demands and decided to get rid from the workman and ultimately on 15-04-1997 the services of the workman have been illegally terminated by the management.

That the termination from services of the claimant is illegal, arbitrary, unjust and malafidely. Therefore, the management violated the provisions of u/s 25 F of the ID Act, 1947. The claimant workman served the management till twenty years, therefore he cannot be removed without retrenchment compensation and entitled for reinstatement as the management did not follow the provision of u/s 25 F of the ID Act, 1947. That the claimant workman sent a demand notice to the management claiming for earn wages, reinstatement with continuity and regularization in service, along with full back wages and all consequential benefits. But the management failed to do so.

That then the claimant workman filed a claim before the conciliation officer, Curzon Read. In reply to the claim the management filed a false and frivolous written statement and therefore the conciliation proceedings could not be succeed and the matter was referred for adjudication before this Hon'ble Tribunal. That the claimant workman is unemployed since his illegal termination from services, therefore, he is entitled for reinstatement with full back wages and continuity and regularization in services along with all consequential benefits.

The management has filed written statement. In the written statement it has been stated that there was no employer-employee relationship between the Bank and Shri Kundan Singh Negi and accordingly what has been referred to by the Appropriate Government for adjudication to this Hon'ble Tribunal cannot be termed as 'Industrial Dispute' as envisaged under the provisions of the ID Act.

That the Bank has a scheme to provide Canteen facility to the staff working in various offices/branch offices

either on cooperative basis or by obtaining the service of outside independent agency for preparation and serving the tea, snacks etc. to its staff members. The scheme was introduced in the year 1983. The person contracted in terms of the above scheme is responsible for providing of the tea, snacks etc. and is also free to engage any person in his own employment. The Scheme also provides for payment of subsidy according to rates as allowed from time to time.

That such person charges directly from the employees of the Bank and also earns profit from the sale of the items to the employees and their guests and customers. That such person is free to do the work himself and to engage further persons of his choice to carry on the work.

That he is not subjected to the disciplinary control of the Bank management. That he is totally independent in his working and there is no element of supervision whatsoever in nature by the Bank as to the manner in which the canteen contractor is to run the day to day affairs of the canteen except the specific terms and conditions agreed to with the Bank.

That the committee constituted under the scheme is purely an advisory body with basic objective to negotiate the prices and quality of the items/eatables supplied by the contractor.

That the canteen facility has been introduced by the Bank only by way of a welfare measure and the Bank is under no statutory obligation whatsoever to provide any such facility to the staff members. That such persons earns profits from the sale of items as an independent businessman.

That it is well settled preposition of law laid down by Hon'ble Supreme Court in the case of management of RBI Vs. their workmen (1996 Lab IC 1048 SC) that the persons working in the canteen of RBI are not workmen. This view has been reiterated by the Hon'ble Supreme Court in the case of SBI Vs. SBI Canteen Employees Union [JT 2000 (5) SC 63].

That this Hon'ble Tribunal in its award dated 09-04-2001 in the matter of Ichhuv Sarkar and 184 others Vs. PNB, published in Gazette of India, Part-2, Khand 3 dated 12-05-2001 has held that the persons running the canteen of the Bank are not the employees of the Bank.

That it is submitted that Shri Negi was used to be paid subsidy in terms of the Bank rules and he also used to charge directly from employees and others for the items supplied by him out of which he used to earn profit. It is further submitted that Shri Negi was wholly independent and there was no element of control/supervision and he was free to do work himself or to engage any other person for the said purpose. He was also not under the disciplinary jurisdiction of the Bank.

It is denied that Shri Negi was ever appointed or offered work as peon as alleged or otherwise. In view of this, there was no question of making any payment by way of wages to Shri Negi. It is reiterated that Shri Negi was running canteen of the Bank at Rajendra Place premises of the Bank and he was used to be paid canteen subsidy as per the rules of the Bank besides his directly charging the employees/others for the items supplied by him.

There was no question of providing facilities of a regular staff to Shri Negi. It is further submitted that arrangement of Shri Negi was discontinued w.e.f. 05-04-1997 and not from 15-04-1997. Further since Shri Negi was never in the employment of the Bank and there was no employer-employee relationship, there was no question/occasion to terminate his services as alleged or otherwise.

It is reiterated that there being no employer-employee relationship between the Bank and Shri Negi there was no question of termination of his services as alleged or otherwise. It is further submitted that the provisions of Section 25 F of the ID Act are not applicable to the facts of the present case.

It is submitted that the reply filed by the Bank before ALC(C), New Delhi was based upon the facts. However, it is admitted that the conciliation proceedings ended in a failure and the so called dispute has been referred to this Hon'ble Tribunal though the same does not constitute industrial dispute as defined under the provisions of the ID Act meriting any consideration.

The workman applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken. Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that he was engaged in the respondent Bank since 1977 as Peon. His last drawn wages were 2600. He demanded regularisation but the management got annoyed and terminated his services illegally, arbitrarily and malafidely on 15-4-1997. No compensation and pay in lieu of notice was paid to him u/s 25 F of the ID Act.

It was submitted from the side of the management that the workman is a contract employee. He was given contract for one year and subsidy was paid to him every month. He claimed subsidy from 01-03-1997 to 31-03-1997 of Rs. 2640 and the same was paid to him. He was paid for the period 31-05-1996, 03-07-1996, 05-08-1996, 07-09-1996, 04-10-1996, 05-11-1996, 10-12-1996, 04-01-1997, 13-02-1997 and 06-03-1997 respectively by MEX - 2.

It was further submitted by the management that the workman filed a Civil Suit No.114/98 and he sought stay in that suit. He requested to the Court to restrain the respondent from removing the articles and utensils from Kitchen of the Bank and obstructing him from performing his duties. No stay was granted to him. The management took the stand in that case that the workman was given contract for running Canteen only for one year in May, 1996. When the Provident Fund Department of the respondent Bank was shifted from Sansad Marg to Vikrant Tower, Rajendra Place.

It was further submitted from the side of the management that the workman has not filed even a scrap of paper to show that he was an employee of the Bank from 1977. He has only filed affidavit. Affidavit cannot take the place of documentary evidence. If he was an employee of the Bank for such a long period he should have filed proof in support of his employment.

It was further submitted that Kundan Singh Negi the workman was paid subsidy on three or four occasions and he has put his signatures. Photocopies of the documents have been annexed with the records and the original was produced before me. From perusal of the document of the respondent Bank it becomes quite obvious that the workman was given contract of running a Canteen for only one year. He has not produced any document to show that he was ever an employee of the Bank. The reference itself is regarding working of the workman in the Canteen of the Bank. The Canteen of PNB is not a creation of any statute so the workman has no statutory right. Moreover, he ran the Canteen for only one year meanwhile his services were not found satisfactory so he was asked to close the Canteen and he filed a Civil Suit for his utensils and furnitures. He was simply a Canteen employee for less than a year. There is no question of reinstatement or regularization. The law cited by the workman applicant is not applicable in the present fact and circumstances of the case.

The reference is replied thus:

The action of the Chief Provident Fund Department, Punjab National Bank, Rajendra Place, Vikrant Tower, Delhi in stopping from duty w.e.f. 05-04-1997 to Shri Kundan Singh Negi who was working in the Canteen of the Bank, instead of regularising him in the services of the Bank is justified, valid and reasonable. The workman applicant is not entitled to get any relief as prayed for.

Award is given accordingly.

Date 9-5-2006

R.N. RAI, Presiding Officer

नई दिल्ली, 16 मई, 2006

क्र. आ. 2257.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के

प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 42/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-5-2006 को प्राप्त हुआ था।

[सं.एल-12012/169/1998-आई आर(बी. II)]

सी.गंगाधरण, अवर सचिव

New Delhi, the 16th May, 2006

S.O. 2257.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 42/99 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Indian Bank, and their workmen, which was received by the Central Government on 15-5-06.

[No. L-12012/169/1998-IR (B-II)]

C.GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II NEW DELHI

Presiding Officer ; R.N.RAI. I.D. No.42/1999

IN THE MATTER OF:

The Gen. Secretary,
Indian Bank Staff Union,
IBSU Delhi (Regd. & Affiliated to BEFI/BEF),
C/o Indian Bank, Mayur Vihar,
Delhi - 110 009.

VERSUS

Indian Bank

The Zonal Manager,
I B, Upper Ground Floor,
World Trade Center, Baber Road, New Delhi - 110 001.

AWARD

The Ministry of Labour by its letter No. L-12012/169/98 IR (B-II) CENTRAL GOVERNMENT Dated 25-01-1999 has referred the following point for adjudication.

The point runs as hereunder:

“Whether removal from service of Smt. Alka Hyward clerk cum-shroff in Greater Kailash Branch of Indian Bank was in consonance with the provisions of 5th Bipartite settlement on voluntary cessation of employment by the employee? If not what relief the workman concerned is entitled to and from what date?

The Workman applicant has filed claim statement. In the claim statement it has been stated that the workman has been working as a Clerk-cum-shroff with the Greater Kailash Branch of Indian Bank and she was in the rolls of the Bank since 11-10-1983. She applied for leave on 14-6-1993 and in the leave application, she had specified the address for any communication during her leave period as required by Clause No. 13.11 of the Bipartite Settlement dated 19-10-1966.

That the workman and her mother both fell sick to such an extent that the workman had to extend her leave from duty for the Period from 14-6-1993 to 13-11-1994. During this period, the Workman had continuously kept the Bank informed of her illness along with her applications for leave.

That the Management of Indian Bank without taking into consideration the serious position of the workman for which the appropriate authorities were kept informed regularly said to have issued a letter dated 15-3-1994 purportedly asking the workman to report for duty. The fact remains that the workman did not receive any such letter and as stated hereinabove it was not possible for the workman to join duties due to her serious illness. It is on records that the management of Indian Bank did not send the letter on the address given by the workman as her leave address on the leave applications submitted before proceeding on leave and given on applications sent for extension of leave.

That the Management again in order to keep the employee uninformed of their intentions, issued the Public Notices also only in the News Papers published from Delhi and not in the papers in circulation in the State of Bihar, which address was known to the Bank. They ignored the publications of notices in the State of Bihar despite the fact that the workman belonged to that State which was in the records of the service of the workman with the management of the Indian Bank.

That the Management of Indian Bank vide their letter No. 2IRD/564/94 dated 18-06-1994 passed an illegal order in violation of Clause 17(a) of the Bipartite Settlement removing improperly, the services of the workman w.e.f close of business hour on 5-6-1994 without ensuring to inform the workman about it at the known address of the workman. The intentions of the management to keep the workman uninformed are manifested by the fact that the above-cited letter was also sent at the New Delhi address of the workman knowing fully well that the workman was not present there.

That the Management has no basis and valid reason to consider that the workman has voluntarily caused cessation of employment with the Bank. On the contrary, the workman had been consistently and diligently demonstrating her eagerness to remain in employment by

continuously sending her applications for leave on account of serious nature of her ailment.

That the workman belongs to Scheduled Tribe and hails from tribal areas of Bihar and has the fundamental right enshrined in the constitution of India of protection of her livelihood and employment as her only means of livelihood, the management has unconstitutionally deprived her of this.

That the Workman has been discharging her services while on duty with absolute care and efficiency and never gave any chance of complaint against her by her superiors.

That the Management did not allow her lawful right to join her duties after 13-11-1994. The management did not respond to various representations made by her against the illegal decisions of the management even to the extent that the management willfully did not respond to the legal notice served by the Legal Advisor of the Workman.

That the Workman below named submits that this Honble Tribunal has the jurisdiction to adjudicate and determine the dispute in terms of the law of the land.

The Management has filed written statement. In the written statement it has been stated that the Claimant above named was working as a Clerk-cum-Shroff with the Greater Kailash Branch of the Respondent Bank - and she was on the rolls of the Bank since 11-10-88.

That the Claimant vide her letter dated 14-6-93 informed the Bank as follows:

"I am not keeping well. So I am not able to attend the office. Whenever I will get good health I will report to duty in the Bank.

Thereafter the Claimant stopped attending the office. It is pertinent to state here that in that letter, the Claimant neither specified the number of days of leave required nor gave any address for communication applicable for the leave period which is necessary under the provisions of the Bipartite Settlements which govern the terms and conditions of service for employees cadre to which the Claimant belonged.

That the Claimant also did not inform the Respondent Bank of her intention of leaving the station, nor did she keep the Respondent Bank informed of the developments from time to time so as to seek extension of her leave period. Infact there was no communications whatsoever from the claimant after the letter dated 14-06-1993.

That the Claimant after proceeding on leave did not report back for duty. It is submitted that the Respondent Bank took all possible steps and repeatedly asked her to join duty by sending letters at her last known residential address. It is pertinent to state that letters were sent by the Respondent-Bank even to the permanent address provided

by the Claimant in her service record. It is submitted that a letter dt. 15-3-94 was sent to the claimant at the last known residential address as per the service records. Both these letters were returned undelivered by the Postal Authorities with the remark "Left".

That a notice was sent on 4.4.94 to the Claimant at her last known address as per the Bank's records and also to her permanent address at Ranchi, under clause 17(a) of Vth Bipartite Settlement with an advice to report for duty within 30 days of notice or to submit a satisfactory explanation within 30 days of the date of the notice, failing which she would be deemed to have been retired from Bank's service on the expiry of 30 days from the date of the notice. However these letters were also returned undelivered by Postal Authorities with the remarks "Left".

That as the letters by the Respondent Bank to the Claimant were either returned unserved or for reasons best known to her not received by her, the Respondent Bank got a public notice dated 5-5-94 published in Indian Express, New Delhi edition i.e. the area of the last known address of the Claimant notifying the Claimant to report for duty within 30 days of the notice or submit a satisfactory explanation within 30 days of the publication of the notice, though there was no such obligation on the Respondent Bank after the letter dated 4-4-94 under the provisions of the Bipartite Settlement. Despite this, the Claimant neither reported for duty, nor sent any leave application subsequent to the application tendered by her on 14-06-1993.

That in these circumstances wherein the Claimant neither reported for duty nor sent any leave application subsequent to the one dated 14-6-93 and even avoided receiving the various letters and reminders sent to her to New Delhi address and her permanent address at Ranchi furnished by her, and even did not respond to the public notice dated 5-5-94, and order dated 8-6-94 was issued and sent to the Claimant deeming her to have voluntarily retired from the service of the Bank at the close of office hours on 5-6-94 under clause 17 (a) of the Vth Bipartite Settlement governing the service conditions of the employees of the cadre in the Bank to which the Claimant belonged.

That in furtherance to the letter dated 8-6-94, a public notice dated 15-06-1994 was published in the Indian Express to the effect that the Claimant was deemed to have voluntarily retired from the service of the Respondent - Bank w.e.f 05.06.1994.

That belatedly and as an after-thought, the Claimant wrote a letter dt. 15-11-94 requesting that she be allowed to rejoin the duty at the earliest. It is submitted that the said letter makes no mention about any earlier letters having been sent by the Claimant to the Respondent Management. It is pertinent to point out that the Claimant in her letter dated 14-9-95 admitted as follows :

"I could not inform the Branch about my illness and absence."

That after a lapse of another 6 months the Claimant wrote another letter dt. 29-5-95 accompanied by Medical Certificates to the Chief Manager of the Respondent Management asking that she be allowed to resume duty with the following undisputed admission even therein..

That the Claimant had applied for leave on 14-6-93.

That she could not comply with the public notice and the letter dt. 15.3.94.

However, the Claimant took the stand that she had kept in touch with the Respondent - Bank vide her telegram dt. 28-9-93 and 7 correspondences under certificate of posting. It is denied that any such letters had been received by the Respondent Management or that she had kept the Respondent Management informed vide her letters. The Claimant is put to strict proof of the same.

That it is respectfully submitted that the letters dt. 15-11-94 and 29-5-95 sent by the Claimant requesting to be allowed to resume duties that too nearly 6 months after the date from which she stood voluntarily retired were clearly an after thought. It is not clear why the Claimant had chosen to sleep over the matter for such a long time and approached the Respondent - Bank only long after she stood voluntarily retired.

That the claimant wrote a letter dated 14-9-95 to the Zonal Manager, Indian Bank, Zonal office, New Delhi again requesting that as opportunity may be given to her. It is pertinent to mention here that the said letter also makes no reference to any earlier correspondence that the claimant may have sent to the Respondent - Bank.

That again belatedly the claimant made a claim through the Indian Bank Staff Union, Delhi before the I.d. Assistant Labour Commissioner (c), New Delhi (filed under letter dt. 21.1.98) which was duly repudiated and/or opposed by the Respondent Management per its detailed reply inter alia, contending:

That the claimant gave letter on 14.6.93 stating that she was not keeping well and so she was unable to attend office. "Whenever I will get good health I will report to duty in the Bank" and stopped attending office. In the said letter she did not give any address applicable for the leave period, which is necessary under the provisions of the Bipartite Settlements.

That the claimant never informed the Respondent Management of her intention of leaving the station.

That the claimant never kept the Respondent Management informed of the developments from time and even the letters and repeated reminders sent by the Respondent Management to the claimant both at the last

known residential address of the claimant and at the permanent address as provided in service record were returned.

That by a public notice dt. 5.5.94, the claimant was asked to report for duty within 30 days of the notice or give a satisfactory explanation but neither the claimant reported for duty nor sent any explanation.

That in terms of clause 17(a) of the 5th Bipartite Settlement, the claimant was deemed to have voluntarily retired after the expiry of 30 days from the said notice.

Thus it is respectfully submitted that a clear finding was there that the claimant had not been able to prove conclusively that the letter dated 14.6.93 contained the home address of the claimant which was to be applicable during the leave period.

That the claimant has filed the aforementioned statement of claim through the Indian Bank Staff Union (Regd.) Delhi, C/o Indian Bank, Mayur Vihar Phase - I, Delhi - 110092 (hereinafter referred to as, IBSU). It is pertinent to state here that the claimant till the termination of her services was a member of Indian Bank Employees Union (Delhi) which is an affiliate of All India Bank Employees Association. The said Union/Association has not raised any dispute on the behalf of the claimant but the dispute has been raised by the Indian Bank Staff Union an affiliate of Bank Employees Federation of India of which the claimant was never a member. Hence it is respectfully submitted that IBSU has no locus standi in the present matter and cannot raise the present industrial dispute. It is submitted that it is settled law that one who does not have locus standi cannot agitate a matter before the Hon'ble Tribunal.

That the impugned reference order by the Appropriate Government is without application of mind and bad in law when especially the matter itself does not constitute an industrial dispute under the Industrial Disputes Act.

That by the impugned Terms of Reference, the Appropriate Government by its preamble has stated that in its opinion there existed an industrial dispute between the Respondent Management and the claimant, but it is submitted that no reasonable person much less the Appropriate Government would have come to such a conclusion.

The workman applicant has filed rejoinder. In her rejoinder she has reiterated the averments of her claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that she was on the rolls of the Bank since 11.10.1988. She applied for leave on 14.06.1993 and in the leave application she had specified the address for communications during her leave period as required by Clause 13.11 of the BPS dated 19.10.1966. She remained on leave from 14.06.1993 to 13.11.1994. She continuously kept the Bank informed of her illness along with her applications for leave. The Bank issued letter dated 15.03.1994 purportedly asking the workman to report for duty. The workman did not receive this letter and she was not in a position to join duties due to her serious illness. The management Bank did not send letter on the address provided by her in her leave application submitted prior to proceeding on leave and given an application for extension of leave.

It was further submitted that the Bank sent letters on her permanent address and local address but no intimation was given to her on her changed address and she was treated as voluntarily retired w.e.f. close of business hours on 05.06.1994 without informing her on her changed address given to the Bank in medical leave applications.

It was further submitted that order dated 05.06.1994 is arbitrary, unjust and unfair. The management has caused voluntary cessation of employment with the Bank without serving on her 30 days notice on her known address.

It was further submitted that she belongs to Scheduled Tribe and hails from Tribal Area of Bihar and has fundamental right enshrined in the Constitution of India of protection of her livelihood and employment. The management has unconstitutionally deprived her of her employment. She went to join on 13-11-1994 but she was not permitted.

It was submitted from the side of the management that no leave application was sanctioned. She informed the Bank on 14.06.1993 as follows :

I am not keeping well so I am not able to attend the office. Whenever I will get good health I will report to my duty in the Bank.

It was further submitted that the application submitted by the workman did not disclose the workman's request for any definite period of leave and she proceeded on leave without any sanctioned leave.

It was further submitted that notices were sent to her on her permanent address as well as local address but the letters were returned undelivered by the postal authorities with the remarks left. The workman has not provided her changed address by any letter to the Bank so the Bank was constrained to send notice to her address as per the record.

It was further submitted from the side of the management that the workman has filed documents W-2 & W-3. These are the photocopies of under certificate of posting. The certificates of posting have been concocted and procured. The workman did not send any letter for medical leave to the Bank during her period of absence i.e. 14.06.1993 to 13.11.1994. She wrote letter for the first time on 13.11.1994 expressing her willingness to join duties whereas she has been treated as voluntarily retired w.e.f. 05.06.1994. The applicant was absent without leave applications for one and half year and the Bank has rightly treated her as voluntarily retired after she did not report for duty or did not give any satisfactory reply to 30 days notice.

It was further submitted that the workman has not even filed photocopies of her applications. On M1/I there is no address of the workman. However, on copy which the workman has filed changed address has been mentioned.

It was further submitted from the side of the management that the workman in her cross examination has admitted that she has not stated that she was going on leave on account of ill health of her mother.

It was further stated that she had alleged that she informed the Bank verbally. In the application dated 14.06.1993 there is no mention of the illness of her mother and she has not sought any permission for leaving Delhi.

It was vehemently submitted that she proceeded to Bihar without any prior permission of the Bank. The workman has also admitted in her evidence that after going to her permanent address in Bihar her permanent address was changed. Her address was changed when she went to Bihar on her old address. It is not possible for her to give her changed address in application dated 14.06.1993. She has admitted in her cross examination as follows :

"I while proceeding on leave have mentioned my address during the leave which according to me is stated in Ex-W/4."

She has further stated in her cross-examination as follows :

"My permanent address was changed after I went to Ranchi."

So it cannot be said that she informed the Bank of her changed address while filing Ex.-W/4. There is no other application original or photocopy on which she has endorsed her address and sent the same to the Bank. She has further admitted as follows :

"I have not sent any letter specifically requesting to change my permanent address to the Bank but I have written to the Bank about my address in Ex.-W/4. I have not

given any other letter regarding change of my permanent address. I have given my leave address Ex.-W/4."

After perusing the cross-examination of the workman it transpires that she informed the Bank regarding her address in Ex.-W/4. She sent no other letter informing the Bank of her changed address. Her permanent address was changed after she went to Ranchi. Her permanent address was changed after filing Ex.-W/4, so it cannot be said by any stretch of imagination that she has given her changed address in Ex.-W/4. So she did not inform the Bank regarding her changed address by any letter as has been admitted by her. The address provided in Ex.-W/4 dated 14.06.1993 as her permanent address was changed after going to Bihar.

It was further submitted that the workman after absence of one and half years has tried to make up the case that she sent several letters through UPCs and she got up these UPCs but no application was sent. She has not even filed photocopies of her application. It was her duty to prove that she had informed the Bank of her changed address. There is no evidence to establish the same.

It was submitted from the side of the Bank that in MWI/17 letter dated 15.11.1994 of the workman she has stated as follows :

"I was attacked by Jaundice which took several months to be cured but by this I was too weak to perform my mental and physical work. Even I was not in a position to inform the Bank."

Her clear cut admission in her own letter dated 15.11.1994 establishes the fact that she did not send any application for extending her leave. No definite leave has been sanctioned to her. She has categorically stated that she was not in a position to inform the office. This letter proves the fact that UPCs have been got up as she was not in a position to inform the Bank. According to her own admission the UPCs automatically become forged.

It was further stated from the side of the Bank that exhibit MWI/9 is letter dated 14.09.1995. It is admittedly written by the workman. The workman has categorically stated in this letter as follows : —

"I could not inform the branch about my illness and absence."

"The workman has again admitted that she could not inform the Bank regarding her illness and absence.

It was further submitted from the side of the management that these two letters establish to the hilt that the workman did not send any application for leave and she did not inform the Bank regarding her changed address and there is no evidence on record to show that she sent

six applications with medical certificates. The fact is that the workman proceeded on leave without leave being sanctioned to her to her native place and she remained there for almost one and half years and she did not inform the Bank regarding her illness and she did not send any leave application. She had an intention of not joining the Bank as is clear from her conduct. It transpires that in the month of November she made up her mind to resume her duties again but in her letter dated 15.11.1994 she had admitted that she could not inform the Bank about her illness. It also becomes obvious from her letter dated 15.11.1994 that she was not in a position to inform the office regarding her illness.

It was submitted from the side of the respondent Bank that only in her letter dated 29.05.1995 the workman has stated that she sent a telegram on 28.09.1993 and sent other six letters Under Certificate of Posting. For the first time the workman has revealed to the Bank on 29.05.1995 that she has sent six letters and one telegram. In her letters dated 14.09.1995 and 15.11.1994 she has admitted unambiguously that she was not in a position to inform the Bank regarding her illness.

The case of the workman is absolutely false. The fact is that she proceeded to her native place without any sanctioned leave and she did not inform the Bank regarding her changed address. The Bank sent notice of 30 days but it was received back with the endorsement left. The Bank got notice published in newspaper still she did not report for duty and she did not give any satisfactory reply. The Bank has rightly treated her as voluntarily retired. It is established from her conduct that either she has taken some avocation or she has not the intention to join her duties. The law cited by the workman applicant is not applicable in the present fact and circumstances of the case. The management drew my attention to (2000) 5 SCC 65 Syndicate Bank Vs. General Secretary, Syndicate Bank and 2005 SC Cases (L&S) 689. The Hon'ble Apex Court has held that in case application is received without medical certificates after period of leave was over would not be considered a bona fide act on the part of the workman. The Bank has correctly relied on Clause 17 of the BPS. There is abandonment of service. In the instant case no leave application have been sent and there is no leave application on the record. The workman has miserably failed to prove that she sent any application or letter requesting leave along with medical certificates. Rather it is proved that she has not sent any letter prior to 15.11.1994. The Bank has rightly and justifiably treated her as voluntarily retired and has rightly passed an order of voluntarily cessation of service. No interference is required.

The reference is replied thus:

Removal from service of Smt. Alka Hyward, Clerk cum Shroff in Greater Kailash Branch of Indian Bank was in

consonance with the provisions of 5th Bipartite Settlement on voluntary cessation of employment by the employee. The workman applicant is not entitled to get any relief as prayed for.

Award is given accordingly.

R.N. RAI, Presiding Officer

नई दिल्ली, 16 मई, 2006

का. आ. 2258.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंधनतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 40/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-5-06 को प्राप्त हुआ था।

[सं एल-12012/105/2004-आई आर (बी. II)]

सी.गंगाधरण, अवर सचिव

New Delhi, the 17th May, 2006

S.O. 2258.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 40/2004 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No. 1, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank, and their workmen, which was received by the Central Government on 16-5-06.

[No. L-12012/105/2004-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SHRI SANT SINGH BAL PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1 NEW DELHI.

In the matter of dispute between:

ID. No. 40/2004

Shri Dinesh Chand Mudgil,
Son of Shri Murari Lal, Village
and P.O. Poonhar, Alwar Rajasthan.

Workman

Versus

The Senior Manager,
Bank of Baroda,
Main Branch,
Delhi Alwar Road, Gurgaon.

Management.

Appearances: Shri Sunil Prakash Proxy for AIR for the Workman

Shri T.C.Gupta A/R for management.

नई दिल्ली, 17 मई, 2006

क्र. आ. 2260.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडीकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 102/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-5-06 को प्राप्त हुआ था।

[सं.एल-12012/137/1998-आईआर (बी-II)]

सौ. गंगाधरण, अवर सचिव

New Delhi, the 17th May, 2006

S.O. 2260.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 102/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court Lucknow as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank, and their workmen, received by the Central Government on 16-5-06.

[No. L-12012/137/1998-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT : Shrikant Shukla, Presiding Officer

I.D. No. 102/2000 (Kanpur No. 41/99)

Ref. No. L-12012/137/98/IR (B-II) Dated 4-3-99.

BETWEEN

Sh. Ashok Kr. S/o Sh. Triveni
Pd. 569/226 Kha-New Prem Nagar,
Alambagh, Lucknow (U.P.)

VERSUS

Syndicate Bank,
The Manager, SB
Aminabad, Br.
Lucknow (U.P.) 226002

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute for adjudication to the Presiding Officer, CGIT-cum-Labour Court, Kanpur, but latter on the case transferred *vide* order No. Z-13011/1/97-CLS-II dated 21-8-2000 to the Presiding Officer, CGIT-cum-Labour Court Lucknow for adjudication:

“Whether the management of Syndicate Bank was justified in terminating the service of Sh. Ashok

Kumar Water Boy of Aminabad Branch, Lucknow w.e.f. 8-1-94 is justified? If not, what relief the workman is entitled.”

Workers case in brief is that he was employed in Syndicate Bank since 1986 as Water Boy on daily wage basis and worked as such till 8-1-94 and he completed for more than 240 days in every year. It is submitted that on 9-1-94 worker fell sick and therefore he could not go on duty. On 11-1-94 worker went to Medical College, Lucknow for treatment where worker was admitted till 22-1-94. The Medical College on 23-1-94 discharged the worker and instructed him to appear for follow up and also instructed to take medicine regularly. The worker has alleged that he appeared on 24-1-94 at the work place but the officer incharge Sri M.C. Sharma asked him that as long as Streptomycin injection is not stopped he should not come on work accordingly he was returned. Thereafter the workers treatment continued till 29-3-94 and declared the worker fit on 30-3-94 for work and accordingly worker appeared on 31-3-94 at work place but officer incharge did not permit him to work. Worker continuously approached the officer incharge but he did not take him back on duty as such on 5-4-94 he gave the application to the Chief Manager personally. Even thereafter the worker was not taken on work nor they replied. Worker's case is that the employer without any notice, notice pay in lieu of notice and compensation stopped taking work from the worker and the employer did not tell any reason. It is further alleged that juniors to him has been given regular pay scale and other benefits but the worker has been deprived of the said benefit. Worker has therefore prayed for declaring the act of the management as illegal and has also prayed for reinstatement with all back wages and continuity of the service etc.

1. Worker filed photocopies of the following documents:
Letter of Officer Incharge, Syndicate Bank, KCD College Lucknow No. 850 B/Karmik/19/1987 dt. 4-3-87.
2. Letter dt. 5-4-94 regarding medical leave application of Ashok Kumar.
3. Medical Certificate dt. 30-3-94.
4. Syndicate Bank, Chief Manager letter No. 1462/8500/ABL/EC-3/90 dated 8-10-1990.
5. Officer Incharge letter No. 8500 B/Samanya/87 dated 31-3-87.

Worker filed additional documents in photocopy:

1. Letter No. LKO/8500/EC/161/87 dated 7-7-87 addressed to Chief Manager, Aminabad, Lucknow.
2. Letter No. 8500/B/32/86/Misc. dated 8-2-86 issued by Officer Incharge, KCD College extension counter, Lucknow.

3. Letter No. 8500/B/Misc. 39 dt. 14-2-86 of Officer Incharge.
4. Letter of Officer Incharge no. 8500/B/46/State. dated 28-2-86.
5. Letter issued by Officer Incharge no. 8500/B/LSA/86 dated 13-3-86.
6. Letter addressed to Chief Manager, Aminabad, Lucknow no. 8500/B/Lekhan Samagri/97/86 dt. 19-5-86.
7. Letter addressed to Chief Manager by Officer Incharge, KCD College, Lucknow dt. 26-5-86.
8. Letter addressed to Chief Manager by officer Incharge, KCD College, Lucknow no. 8500/B/Lekhan Samagri/ 218 dated 27-1-87.
9. Letter addressed to Chief Manager by Officer Incharge, KCD College, Lucknow no. 8500/11/ Stationary/87 dated 24-2-87.
10. Papers related to Ashok Kumar dt. 6-12-89.
11. Letter addressed to Chief Manager by Officer incharge, KCD College, Lucknow dt. 15-5-91.
12. Letter addressed to Chief Manager by Officer Incharge, KCD College, Lucknow dt. 29-5-91.
13. Letter No. B-42 For/Oct. Dec. 91 dt 12-2-92. addressed to Chief Manager, Syndicate Bank, Aminabad, Lucknow.
14. Letter addressed to Mandal Office by Chief Manager by Officer Aminabad lucknow dt. 7-3-92.
15. Letter addressed to Chief Manager, Syndicate Bank, Aminabad, Lucknow dt. 25-10-92
16. Letter addressed to Chief Manager by Officer Incharge, KCD College, Lucknow dt. 25-10-82.
17. Letter addressed to Officer Incharge, Syndicate Bank, KCD College, Lucknow dt. 25-10-92.
18. Payment receipts of salary to worker dt. 10-10-92, 23-10-92, 24-10-92, 31-10-92, 9-11-92, 14-11-92, 21-11-92, 28-11-92, 5-12-92, 19-12-92, 2-2-86, 24-12-92, 26-12-92, 28-12-92, 2-1-93, 16-1-93, 23-1-93.
19. Officer Incharge, KCD College, extension counter, Lucknow letter addressed to chief General Manager Zonal Office, Lucknow No. 8500/B/PD/93 dated 23-11-93 Letter No. 8500/B Post Address COD worker has filed rejoinder as well and has not alleging any new facts.

Opposite party has filed written statement denying the claim of the worker. It is submitted that Ashok Kumar

was not working in the capacity of the workman in the bank because there is no post of water boy of water supplier in bank, no appointment letter had either been issued to him. It is further submitted that the extension counter at KCD College Lucknow was facing scarcity of drinking water and water for coolers maintained in the premises, as such it was felt necessary to engage a coolie for supplying water to the office whenever needed. Accordingly Sri Ashok Kumar was engaged for supplying potable water to the office from outside. He was paid coolie charges for the same on day to day basis. His work was purely of casual nature. The bank never insisted that he only should turn up daily and supply water to the office. There was no contract of service. A fixed sum was being paid as coolie charges whenever he brought the water to the bank. In case other person was available, Bank would have paid him coolie charges and availed his services. The nature of payment is also coolie charges as agreed by the worker, to do such work. Moreover the work is in no way connected to the routine functioning of the Bank business. There was no compulsion or obligation on his part of warkar to come to the branch to do this particular work of supply of water from outside. Sri Ashok Kumar was not working in the capacity of the workman in the bank because there was/is no post as water boy or water supplier in the bank. He has neither submitted any application for such work nor any appointment order was issued to him. Ashok Kumar who used to visit the office daily for want of some labour and he was engaged for supplying water to the office from outside and was paid coolie charges for the same on day to day basis. It is specifically denied that the worker worked for more than 240 days in a year. The engagement was purely in casual nature. And therefore he is not entitled for any thing else other than coolie charges which has been paid to him. It is further submitted that any regular appointment in the category of the workman in sub staff cadre in part time/full time, whether on temporary or permanent basis can be made as per the Govt. of India guidelines relating to the notification of the vacancies to the Employment Exchange (S), reservation for SC/ST category, Physically handicapped/ex-sevicer etc. As well as rules/ procedures stipulated by the bank and no Branch Manager is empowered to appoint any person in workman category. The Zonal Management is the only competent authority/ empowered to appointed any person in wokman category that too after following stipulated rules/guidelines. In the instant case, Ashok Kumar at no point of time was appointed in any category by the Zonal Management. Sri Ashok Kumar is not entitled to any relief whatsoever and the claim statement may be dismissed.

The Management has filed photocopies of the vouchers together with photo copies of attendance register and manunal of Inspection Volume 6 of Syndicate Bank.

The workman examined himself and the opposite party has examined Chief Manager Sri Prem Raj.

Opposite party as filed written argument.

Worker has not filed any written argument. The worker was given ample opportunity.

Perused the record and evidence on file.

The issue referred for adjudication about termination of Ashok Kumar water boy with effect from 8-1-94, the issue is as follows;

"Whether the management of Syndicate Bank was justified in terminating the services of Ashok Kumar water boy of Aminabad Branch, Lucknow w.e.f. 8-1-94 is justified; if not what relief the workman is entitled"

This court is to adjudicate the above issue. Admittedly according to the bare reading of the claim statement the worker was not Terminated on 8-1-94 instead according to the claim statement he himself did not go on work on 9-1-94 due to this sickness. Worker although mentioned in the statement of claim that he was admitted in Medical College on 11-1-94 and was discharged on 22-1-94. He has stated in para 8 of the claim statement that he appear before the officer incharge Sri M.C. Sharma on 24-1-94 for duty.

Worker has not filed any medical certificate of Medical College. Had he filed the discharged certificate, the factom of his admission in Medical College could have been proved but he has not done so. It is evidence from the photocopy of the medical certificate dt. 30-3-94 that the worker was in the treatment of Dr. Arvind Dubey w.e.f. 23-1-94 to 30-3-94 as he was suffering from TB, therefore from the above certificate it can not be said that the worker went to join 23-1-94.

Worker has filed the photocopy of his own application dt. 5-4-94 the contents of which are reporduced below :

"सेवा में,
मुख्य प्रबन्धक
सिडिकेट बैंक
अमीनाबाद, लखनऊ
विषय :- चिकित्सा अवकाश
महादय,

निवेदन है कि प्रार्थी आपकी शाखा में टेम्परेरी अटेंडर के पद पर जनवरी, 1986 से कार्यरत है व वर्तमान में आपकी शाखा के विस्तार पटल काली चरन डिग्री कॉलेज में कार्यरत है। प्रार्थी की विविधत खारेब हो जाने के कारण 23-1-94 से 30-3-94 तक बैंक नहीं आ सका अब प्रार्थी इयूटी करने के लिए स्वस्थ है इस हेतु ऑफिसल सर्टिफिकेट संलग्न है।

अतः आपसे अनुरोध है कि 23-1-94 से 30-3-94 तक का चिकित्सा अवकाश माना जाए और अब से दिनांक प्रार्थी अपनी इयूटी ज्वाइन कर रहा है।

धन्यवाद

हस्ताक्षर,
अशोक कुमार
टेम्परेरी अटेंडर
सिडिकेट बैंक,
अमीनाबाद, लखनऊ।"

In the above application he has not written that he has admitted in the Medical College and was discharged on 22-1-94 instead he has written that due to ill health he could not go to the bank from 23-1-94 to 30-3-94, this further proves that the allegation of para 8 of the claim statement is false. Nowhere it is written in the above application that the worker fell sick and did not go to duty on 9-1-94. It is also not mentioned in the said application that he went to duty after 9-1-94 and Officer Incharge did not permit him to join the duty.

According to the statement of claim the worker was engaged as water boy and he was being paid Rs. 10 per day for the work. It is also stated in his statement that there was no source of water in the bank and he used to bring water outside from the bank and put in the bank. It is also admitted that he was receiving labour charges and his attendance was not marked. However, he has changed his statement and stated there after that after 16-12-92 his attendance was marked in the attendance register again he changed his version and stated that attendance was marked since December. It can not be said that he is truthfull witness. Admittedly there is no appointment letter in respect of engagement of the worker. Chief Manager of the bank Sri Prem Ram was not being cross-examined by the worker although the court has to put searching question to him. The Chief Manager has replied in the question to the court that now there is arrangement of water in the bank and there is no need of any water boy. He also denied that any other worker has been engaged in place of Ashok Kumar.

Worker was engaged as water boy to bring the water from the outside and keep in the bank on casual daily wage basis. He was not a regularly appointed woker of the bank. According to the worker's own statement of claim the management did not terminate the services of the worker on 8-1-94 instead the worker himself did not turned up from the employment till 5-4-94. There is no obligation cast upon the bank to re-engage Sri Ashok Kumar after a lapse of about 4 months. Since the management has not terminated the services of Ashok Kumar, w.e.f. 8-1-94 therefore the issue is answered in favour of the management and therefore worker is not entitled to any relief. Award pass accordingly.

SHRIKANT SHUKLA, Presiding Officer
Lucknow
10-5-2006

नई दिल्ली, 17 मई, 2006

का. आ. 2261.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बडोदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय नं.-1, नई दिल्ली के पंचाट (संदर्भ संख्या 39/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-5-06 को प्राप्त हुआ था।

[सं. एल-12012/104/2004-आई आर.(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 17th May, 2006

S.O. 2261.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 39/2004) of the Central Government Industrial Tribunal-cum-Labour Court No.-1, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda, and their workmen, which was received by the Central Government on 16-5-06.

[No. L-12012/104/2004-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SHRI SANT SINGH BAL:

PRESIDING OFFICER: CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO. I: NEW DELHI

I.D NO. 39/2004

In the matter of dispute between:

Shri Ram Ashish s/o Sh. Hari Lal,
H. No. 1385/5, Patel Nagar, Gurgaon,
Haryana

workman

Versus

The Senior Manager,
Bank of Baroda,
Main Branch,
Delhi Alwar Road,
Gurgaon.

Management

Appearances : Shir Sunil Parkash proxy for A/R for
Workman.
Shri T.C. Gupta Advocate A/R for
Management.

AWARD

The Central Government in the Ministry of Labour
vide its order No. L-12012/104/2004 (I.R. (B-II) dated

18-8-2004 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of Bank of Baroda in terminating the services of Shri Ram Ashish S/n Shir Hari Lal, Peon w.e.f. 25-5-2005 is just and legal? If not, what relief the workman is entitled to?"

2. Persual of the record shows that after filing of claim statement and written statement case was adjourned for rejoinder on 6-10-05. On 6-10-05 case was adjourned on the request of the workman for filing rejoinder 22-12-05. On 22-12-05 the case was adjourned to 28-2-06 for filing rejoinder and letter of authority by the workman. On 29-2-06 Shri J. Buther A/R for the workman requested for adjournment as the workman has not contacted him by that date which was opposed. However case was adjourned to 11-5-06 i.e. today for filing rejoinder and letter of authority by Shri J. Buther giving last opportunity to the workman. Neither rejoinder filed nor letter of authority in favour of Shri J. Buther is filed and Shri Sunil Parkash appearing for Shri J. Buther requested for adjournment as Mr. Buther is held up in Madras for attending Kirya Ceremony which was performed on 8-5-06. Shri T. C. Gupta A/R for the management opposed the request. The workman is not taking interest in the prosecution of this case reflecting that he does not dispute the action of the management. Hence no dispute award is passed. file be consigned to record room.

S. S. BAL, Presiding Officer

नई दिल्ली, 17 मई, 2006

का. आ. 2262.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कॉरपोरेशन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 46/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-5-06 को प्राप्त हुआ था।

[सं. एल-12012/127/1997-आई आर.(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 17th May, 2006

S.O. 2262.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 46/1998) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Corporation Bank and their workmen, which was received by the Central Government on 16-5-06.

[No. L-12012/127/1997-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated 27th April, 2006

Present : SHRI A.R. Siddiqui, Presiding Officer

C.R. No. 46/98

I Party

The General Secretary,
Corporation Bank Employees Guild,
Anand Plaza,
Anand Rao Circle,
Bangalore.

II Party

Chief Manager,
Corporation Bank,
Head Office,
Mangalore

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* order No. L-12012/127/97/IR (B-II) dated 24th April 1998 for adjudication on the following schedule:

SCHEDULE

“Whether the punishment of stoppage of two increments with cumulative effect imposed on Shri S. Narayana by the management of Corporation Bank is legal and justified? If not, to what relief the said workman is entitled?”

2. A chargesheet dated 31-3-1995 was issued to the first party workman running as under :—

“That on 18-10-94 at about 10 A.M. Mrs. Veena Nayak Officer, in-charge of Baikampady Branch on that day informed Shri K. Thrivikram Kamath, Sub Manager of Mangalore Ram Bhavan Complex Branch over telephone about their cash requirement of Rs. 3 Lakhs and Shri Kamath agreed to make available the requisite cash. That having regard to the requirement of additional cash of Rs. 50,000 necessitated after the initial request, Mrs. Nayak tried to contact Mangalore Ram Bhavan Complex Branch but could not get the line. That to being the cash from Mangalore Ram Bhavan Complex Branch on that day, you along with Shri M. Shivappa Naik, Peon at the branch were deputed with the written cash indent form signed by Mrs. Nayak. That though the cash indent format was written for Rs. 3.50 lakhs the cash denomination and total columns in the indent were left blank, to be filled in subsequently at Mangalore Ram Bhavan Complex Branch

after ascertaining the availability of cash denomination wise, threat.

That on reaching Mangalore Ram Bhavan Complex Branch at about 11 A.M. on the same day, you went inside the Managers Cabin to meet Shri Narayana Rao, Manager and Shri Shivappa Naik proceeded to the banking hall.

That based on the initial telephonic request from your branch, Shri K. Thrivikram Kamath Sub Manager of Mangalore Ram Bhavan Complex branch prepared a cash debit slip for Rs. 3 lakhs on your arrival and then escorted by Shri Murali Pai, Temporary Peon, Shri K.T. Kamath brought the cash of Rs. 3 lakhs from the double lock without referring to the written cash indent of your branch. That Shri K. T. Kamath handed over to you the said Cash of Rs. 3 lakhs when you came out of the Managers's cabin and filled in the denomination and total columns in the indent. That at this stage you informed Shri K.T. Kamath that the indent was for Rs. 3.50 lakhs and that the cash was short by Rs. 50,000. That then Shri K.T. Kamath verified the indent and filled in the amount column in the cash indent by mentioning Rs. 500 denomination and corrected the figures under total column from Rs. 3 lakhs to Rs. 3.50 lakhs but without correcting the total amount in words. That likewise Shri Kamath altered the amount in words and figures in the cash debit slip from Rs. 3 lakhs to Rs. 3.50 lakhs besides obtaining the signatures of both of you on the cash debit slip and remittance register, Shri K. T. Kamath went inside the safe room to bring the balance amount of Rs. 50,000. That in gross negligence of your duties, you handed over the possession of the cash of Rs. 3 lakhs to Shri Shivappa Naik, Peon and proceeded to meet Shri Padmanabha Kamath Special Assistant who was at the counter. That Shri Shivappa Naik kept the cash of Rs. 3 lakhs inside the cash box locked it and thereafter leaving the cash box unattended on the table of Shri K.T. Kamath. Shri Naik went to the table of Shri B. N. Rajaji, was Clerk who then at another counter. That when shri K.T. Kamath came out of the safe room with the cash of Rs. 50,000/- he observed that both of you were not near his table but found you talking to Shri Pandmanabha. Kamath and Shri Shivappa Naik talking to Shri B.N. Rajaji,

That when Shri K. T. Kamath called you for handing over the balance cash of Rs. 50,000/- he heard Shri Shivappa Naik saying that the cash box containing the cash of Rs. 3 lakhs was missing and that he had only the key of the cash box which was locked and kept on the table of Shri K.T. Kamath.

That contrary to the laid guidelines that the cash entrusted for remittance should be in the joint custody of the employees concerned throughout, until the same is remitted to the concerned branch, you failed to take due care of the cash of Rs.3 lakhs entrusted to you jointly with Shri Shivappa Naik for remittance to Baikampaprdy branch. The aforesaid sequence of events lead us to allege against you that you were grossly negligent while carrying out the cash remittance duty in not ensuring the safe custody of the cash of Rs.3 lakhs entrusted jointly to you and Shri

Shivappa Naik facilitating theft of the said cash on 18-10-1994 at Mangalore Ram Bhavan Complex Branch.

The aforesaid acts and omissions on your part, if proved, would tantamount to doing acts prejudicial to the interest of the bank or gross negligence or negligence involving or likely to involve the Bank in serious loss, gross misconduct under clause 19.5(j) of the Bipartite settlement applicable to you."

3. The workman denied the charges of misconduct leveled against him and a Domestic Enquiry by Shri Umesh Shetty, Retired District & Sessions Judge was ordered against him and the Enquiry Officer gave his findings on 30-11-1995 holding that the workman was not guilty of the charges of misconduct leveled against him. However, the Disciplinary Authority disagreed with the findings of the Enquiry Officer and gave its own reasonings holding the first party guilty of the charges and imposed the punishment of stoppage of two increments with cumulative effect on the workman by order dated 7-5-1996. The appeal preferred by the first party against order of the Disciplinary Authority also came to be dismissed.

4. The first party workman challenged the findings of the Disciplinary Authority and the punishment order in his claim statement inter alia contending that the Disciplinary Authority disagreed with the reasoned findings of the judicial mind on the basis of surmises and conjectures and therefore, impugned punishment order is not sustainable. He contended that the findings of the enquiry officer are just and reasonable whereas, the findings of the disciplinary authority are unjust and unreasonable and against the proved facts in a fact finding enquiry. Therefore, the reasonings of the Disciplinary Authority as well as Appellate Authority in disagreeing with the findings of the enquiry officer are perverse and the punishment order passed against the first party is liable to be set aside with a direction to the management to pay the arrears of wages for the period of suspension and also up to date by way of consequential relief.

5. During the course of first round of the trial, as could be read from the order sheet maintained by this tribunal and records, the management failed to appear this tribunal and therefore, was placed *ex parte*. The first party examined himself in support of the averments made in the Claim Statement and got marked 8 documents at Ex. W1 to W8.

6. After hearing the learned counsels for the first party, my learned Predecessor by his order dated 21-6-1999 allowed the reference setting aside the orders of punishment of the Disciplinary Authority and the Appellate Authority holding that the first party was entitled to the increments, which the management stopped, illegally. It appears from the records that the management filed a

Miscellaneous Petition before this tribunal in MA No. 22/1999 requesting this tribunal to set aside the above said *ex parte* award passed against it permitting the management to file its counter statement and contest the case on merits. This application was opposed by the first party workman and my learned Predecessor after hearing the learned counsels for the respective parties rejected the said application as not maintainable *vide* order dated 16-9-1999. The management being aggrieved by the aforesaid award and the order passed by this tribunal on Miscellaneous Application approached the Hon'ble High Court in Writ Petition No. 22869/2000. His Lordship after having heard the learned counsels representing the respective parties *vide* order dated 12-8-2005 set aside the impugned order dated 16-9-1999 so also the impugned award dated 21-6-1999 passed by my learned Predecessor referred to supra and the matter has been remitted back to this tribunal for fresh disposal in accordance with law.

7. After the remand the management filed its counter statement and while narrating the facts mentioned in the charge-sheet up to the stage of the enquiry officer submitting his findings however, contended that the enquiry officer after holding enquiry submitted his report holding that the workman was not guilty of the charges leveled against him and it is after the receipt of the said report the Disciplinary Authority on independent appraisal of the evidence on record, disagreed with the findings of the Enquiry Officer holding the workman guilty of gross negligence and proposed the punishment of stoppage of two future increments, then, opportunity was given to the first party for personal hearing on the proposed punishment and after hearing him and taking into consideration the letter submitted by him, the disciplinary authority confirmed the punishment proposed against the first party against which order he preferred an appeal and that was also rejected. Therefore, the management contended that the Disciplinary Authority was within his powers in re-appreciating the evidence brought on record and in disagreeing with the findings of the enquiry officer and that the order of punishment passed by the Disciplinary Authority under the facts and circumstances of the case is legal and valid not to be interfered at the hands of this tribunal. The management also requested this tribunal to frame a Preliminary Issue on the point of Domestic Enquiry.

8. Keeping in view the fact that the impugned punishment order was preceded by the DE, this tribunal on 1-2-2006 framed the following Preliminary Issue :

"Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper?" and the matter came to be posted for evidence of the management. On 29-3-2006 learned

counsels for the respective parties have filed a joint memo to mark by consent the documents filed by the management and the first party, conceding the fairness of the DE. Therefore, Domestic Enquiry was held to be fair and proper and the matter came to be posted for arguments on merits. After hearing the learned counsels on merits, the case is now posted for award.

9. Learned counsel for the first party Shri N.G. Phadke argued that as per the charge-sheet the specific allegation against the first party was that he gave the amount of Rs. 3 lakhs to sub staff Shivappa who in turn kept in a box resulting into its theft and thereby first party committed gross negligence as he did not keep the amount in his custody being a joint custodian of the said amount. He contended that it is precisely the said point was raised by the learned enquiry officer in his findings and after discussing the evidence brought on record recorded a finding that the amount in question was not given to the first party by Shri Kamath and in turn it was not given by the first party to said Shivappa and that infact the amount was handed over to Shivappa itself by Mr. Kamath. Learned Counsel submitted that the learned enquiry officer analysed the oral and documentary evidence pressed into service on behalf of the respective parties and rightly came to the conclusion that charge of misconduct levelled against the first party was not proved. He contended that the Disciplinary Authority though had the power to disagree with the findings of the enquiry officer but in the instant case his findings holding the workman guilty of the charges has not been supported by the evidence brought on record and with the reasonings given by him as extraneous and beside the point, therefore, they are liable to be quashed. He attacked the order of the Appellate Authority in confirming the findings Disciplinary Authority again on the same grounds. In support of his argument that there was no link established between the workman and the alleged misconduct and that on the ground of suspicion alone the workman cannot be held guilty of the charges even if there is voluminous evidence brought on record. He cited the following eight decisions :

1. 2002 III LLJ 848
2. 1964(4)SCR 718 AIR 1964 SC 364
3. 1991(62)FLR 104
4. 1984(2)LLJ 203
5. 1984 Lab IC NOC 6
6. 1978 2 SCC 42
7. 1982(1)LLJ 33
8. 2005 III LLJ 59

10. Whereas, the learned counsel Shri Venkatesh for Shri P.S. Sawkar representing the management vehemently argued that the findings of the disciplinary authority are supported by legal and sufficient evidence in establishing the fact that the first party did not carry the duty of the remittance of cash entrusted to him along with said Shivappa. His contention was that the cash in question was supposed to be in the joint custody of the first party and Shivappa and the first party having handed over the same to Shivappa must be held to have committed the act of contributory negligence as held by the Disciplinary Authority. He submitted that the first party was negligent in handing over the indent form prepared for Rs. 3.50 lakhs to Mr. Shivappa though he was supposed to approach Mr. Kamath straight way with indent and therefore, committed an act of negligence. He argued that findings of the Disciplinary Authority's stand on the footing of the findings of the enquiry officer and if they are supported by evidence brought on record holding the workman guilty of the charges such findings cannot be subjected to judicial review. He took support of the principle laid down in 1999 II LLJ 682 SC Bank of India Vs. Degala Surayananarayana to prove his point. He also cited decisions reported in AIR 1998 SC 2713, 2000 I LLJ 996 and AIR 1999 AC page 1994 and since the principle laid down in the later two decisions are not disputed, they are not relevant for the purpose.

11. After having gone through the enquiry report, the findings of the Disciplinary Authority as well as the order of the Appellate Authority and other material brought on record, I do not find much substance in the arguments advanced for the management.

12. It is now well settled preposition of law that the Disciplinary Authority has got every power and authority to disagree with the findings of the Enquiry Officer assigning valid and sufficient reasonings supported by evidence on record. The contention of the management that the findings of the Disciplinary Authority will not be subjected to judicial review in the light of the principle laid down by their Lordship of Supreme Court in the case referred to supra, in my opinion, are not tenable. Their Lordship of Supreme Court at para 11 of the said decision laid down the following principles:

“Strict rules of evidence are not applicable for departmental enquiry proceedings. The only requirement of law is that the allegation against the delinquent officer must be established by such evidence acting upon which a responsible person acting reasonably and with objectivity may arrive at a finding upholding the gravamen of the charge against the delinquent officer. Mere conjectures or surmises cannot sustain the finding of guilt even in departmental enquiry proceedings. The court

exercising the jurisdiction of judicial review would not interfere with the findings of fact arrived at in the departmental enquiry proceedings excepting in a case of malafide or perversity i.e. there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that finding. It is further held that the court cannot embark upon reappreciating the evidence or weighing the same like an Appellate Authority. So long there is some evidence to support the conclusion arrived at by the Departmental Authority, the same has to be sustained."

13. From the reading of the above said passage it becomes crystal clear that the court exercising the jurisdiction of judicial review would not interfere with the findings of fact arrived at in the departmental enquiry proceedings excepting in a case of malafides or perversity i.e. there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that finding. It is further held that the court cannot embark upon reappreciating the evidence or weighing the same like an Appellate Authority so long there is some evidence to support the conclusion arrived at by the Departmental Authority. Therefore, the aforesaid principle of law have made the position very clear on the point that findings of the Departmental Authority, either of enquiry officer or the Disciplinary Authority can be put to judicial test if they are not supported by sufficient and legal evidence and the court has got powers to reappreciate the evidence in order to find out whether those findings suffered from malafides or perversity. Now with this background in view let us appreciate the respective contentions of the parties.

14. As noted above, the first party takes support of the findings of the enquiry officer to prove his innocence and whereas, the management takes shelter under the findings of the Disciplinary Authority to hold the workman guilty of the charges. In order to appreciate the aforesaid contentions, it will be worthwhile to go into the findings of the enquiry officer in the first instance. The discussions and the reasoning made by the enquiry officer to arrive at a conclusion that the amount of Rs. 3 lakhs in question was not handed over to the first party by Shri Kamath are found on pages 5 to 9 and from the reading of the above said reasoning, it can be found that main witness, Shri Kamath (evidence of other witness is quite formal and on undisputed facts) was examined before the enquiry officer and made a statement to the effect that he had handed over the amount to the first party was not the witness reliable keeping in view his earlier statement made before the responsible Police Officer namely DW2, the then Circle Inspector of Police who investigated into the matter. The

Kannada version of said Kamath would read in no uncertain terms that after having brought the amount of Rs. 3 lakhs from the strong room in a plastic tray through sub-staff Murli working in the bank, he himself counted the cash and thereafter he had given the said amount to the said Shivappa and it is thereafter he found the first party coming out of the Manager's Cabin. He had also stated that after he prepared the debit slip he was given the slip (indent) showing the figure of Rs. 3.50 lakhs and thereafter he again went inside the strong room to bring balance amount of Rs. 50,000/- and handed over the same to Shivappa itself. Therefore, relying upon the above said statement of Kamath made before the police made by him immediately after the incident, his statement made during the course of enquiry that he handed over the amount of Rs. 3 lakhs to the first party was rightly rejected by the Enquiry Officer. That apart learned enquiry officer took into consideration the document at Ex. D3, a circular No. 332/94 dated 10-10-94 issued by the Support Services Division (Security department of the bank) on the very next day of the incident taken place on 18-10-94. From the reading the aforesaid circular issued by the management bank itself it is very much evident that it is Mr. Shivappa Naik who had received and held the cash on his own without the presence of the Clerk (first party). It is further stated that Shivappa Naik was holding the cash all alone in a careless manner and the clerk (first party) went away to the manager's cabin. It was observed that through the remitting branch should have made payment only to the officer, clerk on written indent form but K.T. Kamath on that day paid cash to the sub-staff and that too, through a temporary sub-staff. Therefore, learned Enquiry Officer was once again very much justified in taking into consideration the above said circular in coming to the conclusion that the amount in question was handed over to Shivappa by Kamath and that first party was nowhere in picture when Shivappa received the amount from Kamath.

15. The next evidence which has been taken into account by learned enquiry officer is the statement of Gangadharaiyah examined as a defence witness during the course of enquiry wherein he has stated that after having reached the spot for the purpose of investigation on the very same day, he got the incident re-enacted and his investigation revealed that at the time Shri Kamath handed over Rs. 3 lakhs to Shivappa, the first party was inside the Chamber of the Manager. This statement of DW2 has also been corroborated by the evidence of another defence witness DW1 who accompanied DW2 at the same time of investigation. It is in this view of the matter, the learned enquiry officer was to observe that these are the two independent and responsible witnesses and there is no reason why their evidence cannot be accepted and he further observed that from their evidence it is clearly

established that amount of Rs. 3 lakhs was handed over to Shri Shivappa by MW3 (Kamath) when the CSO (first party) was inside the cabin of the Manager. Therefore, considering the cumulative effect of the evidence pressed into service by the parties, learned counsel arrived at a conclusion that charge of misconduct leveled against the first party was not proved. Now, therefore, in the light of the above, a question arises as to whether the Disciplinary Authority was justified in disagreeing with the findings of the Enquiry Officer. By no stretch of imagination it can be said that his findings are supported by any evidence brought on record during the course of Enquiry. As noted above, the evidence which was available to the Enquiry Office was more than sufficient and cogent to say that the amount in question was handed over to Shivappa by Shri Kamath by which time the first party was in the Cabin of the Manager. From the reading of the findings of the Disciplinary Authority it is seen that there is no comment or discussion found on the evidence which was discussed and considered by the Enquiry Officer. Nowhere, the Disciplinary Authority made any observation to the effect that the conclusion arrived at by the Enquiry Officer in giving a clean chit to the first party has not been supported by any sufficient and legal evidence. He never referred either to the statement of Kamath or to the evidence of DW1 and 2 so as to suggest that their evidence did not support the findings of the Enquiry Officer or that the evidence of those witnesses in any way point out to the fact that the amount in question was given to the first party and it is from his custody it was stolen away. The fact that amount was given by Mr. Kamath to Shivappa, infact, has been admitted by the Disciplinary Authority himself in his findings on page 6 where in no uncertain terms he observed that "consequently, it was Shivappa, peon who handed over the cash indent to K.T. Kamath who immediately handed over Rs. 3 lakhs as originally requested and it was after 10 minutes the employees (first party) came out of the bank Manager's Cabin and approached Kamath and further observed that the disappearance of the cash of Rs. 3 lakhs already handed over to Shivappa took place during the time Kamath went inside the strong room and brought the additional amount of Rs. 50,000. Therefore, the Disciplinary Authority itself could not dispute the fact that the amount in question infact was handed over to Shri Shivappa in the absence of first party and its disappearance took place when Kamath went inside the strong room to bring the additional amount of Rs. 50,000. This observation of Disciplinary Authority infact will be lending support to the findings of the Enquiry Officer based on which he concluded to say that charge of misconduct alleged against the first party in the charge-sheet was not proved.

16 As noted above, a specific allegation was made against the first party that he received the amount from

Kamath and handed over the same to Shivappa negligently causing its disappearance and this specific and main allegation in the charge-sheet itself has been negated and falsified in the evidence produced before the Enquiry Officer suggesting otherwise. The reasoning given by the Disciplinary Authority in holding the first party guilty of the charges saying that the first party with indent should have straight way approached Sri Kamath without going to the chambers of the Manager and that he should have retained the key of the cash box and the cash indent from with him, in my opinion, are extraneous and beside the point. The observation by the Disciplinary Authority that the first party had given the indent form of Rs. 3.50 lakhs to Shivappa while going to the chambers of the Manager are not acceptable. Had the indent form given to Shivappa and Shivappa approached Kamath with indent form for Rs. 3.50 lakhs, then, the question of Shri Kamath in the first instance bringing a sum of Rs. 3 lakhs only from the strong room would not have arisen at all. He brought amount of Rs. 3 lakhs from strong room in the first instance based on the oral request of Branch Manager, Bikampady not on the basis of indent. It is after that first party approached him with indent of Rs. 3.50 lakhs Shri Kamath once again went inside the strong room to bring balance amount of Rs. 50,000/. Therefore, observations of the Disciplinary authority that the first party committed negligence by handing over indent from to Shivappa are not sustainable. Therefore, the reasoning given by the Disciplinary Authority first of all are not supported by the oral and documentary evidence brought on record and secondly as noted above are extraneous and beside the point. On the other hand the findings of the enquiry officer holding the workman not guilty of the charges and that the defence taken by the first party is plausible and acceptable are well reasoned supported by sufficient and legal evidence. In the result findings of the enquiry will have to be upheld and the findings of the Disciplinary Authority are liable to be quashed so also the order of appellate authority. Hence the following Award.

AWARD

The order of the Disciplinary Authority imposing the punishment of stoppage of two increments with cumulative effect and affirmed by the Appellate Authority is hereby set aside. The Management is directed to pay the arrears of differential wages for the period of suspension and shall release the increments in favour of the first party. No costs.

(Dictated to PA transcribed by her corrected and signed by me on 27th April, 2006)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 18 मई, 2006

का. आ. 2263.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन इंस्टीट्यूट ऑफ एस्ट्रोफिजिक्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 61/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-5-06 को प्राप्त हुआ था।

[सं एल-42011/62/1998-आईआर(डी यू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 18th May, 2006

S.O. 2263.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. 61/99 of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Institute of Astrophysics and their workmen, which was received by the Central Government on 18-5-06.

[No. L-42011/62/1998-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE 560 062

Date : 28th April, 2006

PRESENT :

Shri A.R. SIDDIQUI, Presiding Officer
C.R. No. 61/99

I PARTY

The General Secretary, Indian Institute of Astrophysics Employees Union, Koramangala, Bangalore- 560034

II PARTY

The Director, Indian Institute of Astrophysics, Koramangala, Bangalore-560034

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* order. No.L-42011/62/98/IR(DU)dated26th April, 1999 for adjudication on the following schedule:

SCHEDULE

“Whether the action of the management of Indian Institute of Astrophysics in depriving the promotion/up

gradation of the 34 employees i.e. Shri Krishnamurthy and others is legal and justified? If not, to what relief the workmen are entitled?”

2. The case of the first party union which had espoused the cause of the 34 employees whose names are mentioned in Annexure 'A' to the Claim Statement, in brief, is that the management introduced an Assessment Promotion Policy in the year 1988 for the benefit of its employees to assess once in five years the performance of the employee for the purpose of promotion/up gradation on the recommendation of the assessment promotion committee. The employees were supposed to be called for interview and their performance in the job and the C.R. Grading etc. should be carefully considered by the said Committee and on its recommendations promotion or up gradation in respect of the particular employee shall be done by the Director of the Management Institute; that this practice of giving the Assessment Promotion was going on smoothly until October 1994 but all of a sudden 35 employees whose names and particulars are shown in Annexure 'B' to the Claim Statement, were given promotion/up gradation violating the said Assessment Promotion Policy in October 1994, in as much as, no personal interviews were ever conducted and no procedure as laid down on the policy, were followed in respect of the employees promoted. Some of them were given double/triple jumps at a time and some of them were given promotions before completion of 5 years service and some of them were not even completed their probations. The details of violations made by the Assessment Promotion Policy Committee have been given in Annexure 'C' to 'I' to the Claim Statement; that the first party workmen though were eligible and qualified to be promoted as per the above said promotion policy, have not been considered and given promotion; that the office-bearers of the first party union personally met the Director, Shri Ramnath Cowsik in December 1994 making a request to promote the first party workmen and he had given the assurance to look into all the genuine cases and considered them for promotion. However, instead of doing so, the management tried to close the matter by giving one increment to 22 employees and two increments to one employee in October 1995. Therefore, the first party union raised the dispute before the Conciliation Officer before whom the management took up the contention that the 35 employees as mentioned in Annexure 'B' to the Claim Statement are the employees selected from among 62 contingent workers whose services were regularized during the year 1993 which contention of the management was false and baseless; that only 17 out of said 35 employees were contingent workers prior to their regularization in the year 1993 and the remaining 18 were in the permanent service of the management right from the year 1978 and onwards; that the management promoted

aforesaid 35 employees ignoring the long and unblemished service of the first party workmen who were discharging their duties and responsibilities to the satisfaction of the management. The management therefore, promoted the above said 35 employees on the basis of pick and choose policy who were favourites to the Section Officer's and departmental heads. Therefore, the first party union requested this tribunal to pass an award holding that the action of the Second Party management in depriving of the promotion/up gradation to the first party workmen which is illegal and unjustified and to give a direction to the management to promote them w.e.f. October 1994 with all consequential benefits.

3: The management by its Counter Statement resisted the claim of the first party workmen, inter alia, contending that the main object of the management institute is to carry out fundamental research in the fields of Astronomy, Astrophysics and related fields and there is no industrial output or any activity that leads to profits and therefore, the institute does not come under the definition of an Industry; that the management is fair and generous towards its employees they being assessed of performance at least once in five years and the assessment policy of the management is a only channel for promotion for those who have performed well. Promotions are not based on availability of vacancies or the seniority of the employee concerned and in the process first party workmen get minimum of 3 promotions in the entire career and the number of promotions obtained by most of the first party workmen have gone even up to 4 times and many of them still have got 10-15 years of service to their further promotions; that the Assessment Committee of Experts have access to the Annual Confidential reports of the individuals and obtains input from the Senior individuals under whom the individuals worked and when needed call the employees for a personal interview so as to give him every opportunity to explain his contribution to the Expert Committee. The committee may recommend either a status quo or some additional increments or may recommend for a promotion where the candidate is found fit. Therefore, any individual who wishes to be promoted can achieve his goal by serious disciplined productive activity in the Institute. Though regular assessments are carried out once in 5 years, in some cases it is done sooner for adequate reasons in charge of the employees of the management institute obtained their promotions by the recommendations of the Expert Committee and i.e. the only channel available for promotion in the institute. It is the quality and quantity of work done by the individuals that alone get them promotions to senior position as their seniority in service and other considerations are not the criteria; that the first party has willfully suppressed the full details in the Annexure-A to falsely substantiate their claim that they are aggrieved.

They have misrepresented as promotions the exercise taken up in 1994 for the proper placement of all employees in positions commensurate with their qualifications and actual functions. The correct position is detailed in the Appendix -RA submitted along with the Counter Statement; that the exercise carried out in 1994 was for proper placement of staff members which has been misconstrued as promotion by the first party workmen. The Expert Committees assessed all the members including those listed in Annexure -A&B but recommended only the members listed in Annexure-15 recommending any change in the placement of the members listed in Annexure-A. There is no favouritism of any sort as alleged by the first party; that this exercise was carried out for the staff members who were regularized in 1993 and those who were recruited earlier and were not suitably placed and therefore, were recommended for proper placements. Therefore, the claim of the first party that they have been adversely affected in not being considered for along with the employees mentioned in Annexure-B to the Claim Statement is not correct and justified. Therefore, the reference is liable to be dismissed.

4. The management in support of its contentions examined one witness as MW1 and got marked as many as 13 documents at Ex. M1 to M13. His statement in examination chief is just the repetition of the various contentions taken by the management in its Counter Statement and, therefore, need not be once again repeated. His statement in cross-examination relevant for the purpose is that when 35 workmen as per Annexure-B were given placement they have considered their assessment and performance and that promotion policy is different from placement. The placement of 35 workmen is in accordance with the guidelines given in Ex.M2. According to their policy, placement is to correct anomaly and promotion is for up gradation considered every five years period by assessing the performance and confidential report and whereas, up gradation is to get the next higher grade in the same post and in promotion higher post is given. He denied the suggestion that while giving placement to the said 35 workmen they have not followed the rules in Ex. M2 and that while assessing the work of that 35 workmen, their case (case of the first party workmen) has not been assessed. He admitted that they have not called for interview these 35 workmen and so also have not called for interview the first party workmen. It was elicited from his mouth that there is no question of juniors and seniors because it is only a placement. Then he denied the suggestion that first party workmen have been denied the benefit, which has been given to the 35 workmen shown in Annexure-B. The documents marked for the management namely EX.M1 is the memorandum and rules, Ex.M2 is the norms and guidelines for recruitment and promotion,

Ex. M3 is corresponding with Annexure-B of the Claim Statement. Ex. M4 and M5 are the confidential original recommendation of the Expert Committee for review and other cases. Ex. M6 is the report of the Committee for the regularization of the contingent staff as shown in Ex. M3. Ex. M7 is the list showing the increment and promotion given to the first party workmen. Ex. M8, M9 & M10 are the letters informing that the report of the committee has been considered and action has been taken. Ex. M11 series are the 35 letters issued to them for the alleged placement made under the recommendations of the Assessment Committee whose names are given in Annexure-B of the Claim Statement. Ex. M12 is the Labour Commissioner (Central) notice and Ex. M13 is the copy of the minute dated 25-01-2002.

5. On behalf of the first party union, the then, General Secretary has been examined as WW1 and his statement in examination chief is as under :

“ I am the General Secretary of the union. First party workmen has authorized to raise this dispute. Ex. W1 is the resolution book is produced. Ex. W2 is the representation given by the union. In 1994, 35 workmen whose names are mentioned in Annexure-B to the Claim Statement were upgraded. Ex. M6 is the recommendation of the committee for upgradation. 2nd Party did refer the names of 34 workmen in this dispute to the committee. The committee had not assessed the work of 34 workmen. Earlier to 1994 (16) out of 35 workmen were called contingent mazdoor and they were given appointment and remaining workmen were regularized between 1978 /1993 when the workmen 35 were regularized, they were given proper placement. 35 workmen of Annexure B were given up gradation and not the placement in performance of Ex. M6. Ex. W3 is the upgradation order of Thimmaiah and he is one among 35 workmen of Annexure-B. Before the Conciliation proceedings, the management agreed to consider the case of 34 workmen already 35 shown in Annexure B but it did not consider. Director had also pressed to consider the case and rectify the things.”

6. During the course of his examination chief, as noted above, three documents were marked at Ex. W1 to W3 and in his cross-examination Annexure-B of the Claim Statement was marked at Ex. W4. It was elicited in his cross-examination that except thirteen employees shown in Annexure-B, the rest of the employees were contingent employees waiting for their proper placement and they have been regularized in a phased manner up till the year 1993. While admitting the fact that assessment committee is to assess the performance of the employees once in five years and that they have not raised any dispute prior to the year 1988, he denied the suggestion that contingent employees and other employees in Annexure-B have been given only placement and not promotion. While showing his ignorance

to the report at Ex. M6 and the Confidential Reports at Ex. M4 & M5 he also shown his ignorance that as per the above said reports the management has taken action. While admitting the fact that the management had offered one more Expert Committee to go into the grievance of the employees during the course of Conciliation and the union did not agree to that, he denied the suggestion that the orders given to the employees in Annexure-B were by way of proper placement and not by way of promotion.

7. The learned counsel for the first party workmen vehemently argued that in promoting the 35 employees whose names are mentioned in Annexure-B to the Claim Statement, assessment promotion policy has not been followed in its true sense and spirit as the first party workmen mentioned in Annexure-A to the Claim Statement who were seniors to the employees promoted having put in long service of more than two to three decades have not been considered for promotion and have not been promoted. He submitted that the first party workmen have no grievance as far as the promotions given to the employees but their grievances are that they also must have been promoted along with those employees.

8. Coming to the point as to whether the management institute is an ‘Industry’ as defined under section 2(j) of the IDAct, learned counsel for the first party invited attention of this tribunal to the statement of MW1 in his cross-examination and also relied upon the decisions reported in 1978 (36) FLR 267 SC Bangalore Water Supply & Sewage Board Vs. A. Rajappa & Others and AIR 1961 SC Page 484- the Ahmedabad Textile Industry’s Research Association Vs. S.O. Bombay & Ors. In support of his contention that promotion is the right of the employee and that cannot be denied arbitrarily, he cited the decision reported in ILR 2004 Kar 5260 - K.G. Hadapad Vs. Registrar, Karnataka University, Dharwad & ILR 2004 Kar 4633 -C. Chennegowda & Another Vs. High Court of Karnataka.

9. When the matter was taken up for arguments on behalf of the management on 16-2-2006 learned counsel Shri P.S. Sawkar was heard party and thereafter for his further arguments, case came to be adjourned from 8-3-2006 till 28-3-2006 and when he did not turn up the request made on his behalf by his Assistant, Shri Venkatesh was rejected and the matter came to be posted for award.

10. In his arguments learned counsel in the first instance submitted that the management is not an ‘Industry’. On merits he contended that the employees have got no right to promotion but they have got right to be considered for promotion and there is lot of difference between the two rights. He contended that the promotion of employees under the management is governed by assessment promotion policy vide Memorandum of Rules

at Ex.M1 and the guidelines at Ex.M2. He contended that promotion is not based on vacancy or on the seniority of the employee concerned and it is mainly based on the assessment of his performance read with his confidential reports and this policy has been very much followed by the management assessment committee of Experts while making the placement of the 35 employees shown in Annexure-B (Ex.W4) annexed to the claim statement. He contended that the aforesaid employees infact have not been promoted but have been given placement and those were the contingent employees whose services were regularized after a long time in the year 1993 and thereafter had been given proper placement. He also submitted that during the course of conciliation, the management had come forward with an offer to set up another Expert Assessment Committee in order to consider the case of the first party workmen but the union leaders did not agree to that and therefore, conciliation failed. He also submitted that most of the first party workman have already been given two to three promotions and they have got still 10 to 15 years of service to get the next promotion and therefore, they cannot make any grievance at this stage against the placements given to the employees as per Ex. W4 by the management.

11. As far as the contention of the management that it is not an Industry as defined under Section 2(j) of the ID Act, in my opinion, merits no consideration. Though MW1 in his examination chief has stated that they are not manufacturing any thing and they are not carrying out any industrial activities and that they have academic, scientific, engineering and technical and administrative staff and non-technical staff in their establishment. However, in his cross examination he admitted that they are getting Glass Blanks by importing them exclusively for their research work and those Glass Blanks are not the mirrors. He admitted that they are not importing mirrors from foreign countries and Glass Blanks are used for telescope. Then he admitted that Glass Blanks before using for telescope had to undergo some process to become mirrors. They have no workshop but they have Photonic Division which was earlier called as Optic Laboratory. They have mechanical workshop, Electric Division and Carpentry Section. He also admitted they have binding section for their purpose which means book binding. Based on the above said statement of MW1, learned counsel for the first party was justified in contending that management is an 'Industry' and as noted above, in the first instance he took support of the principle laid down by their Lordship of Supreme Court in the above said Bangalore Water Supply case. Wherein, their Lordship have defined 'Industry' with reference to three types of activities. On going through the principle laid down in the said decision and then taking into consideration the statement of MW1 noted above, there cannot be any

hesitation for this tribunal to come to the conclusion that the activities of the management institute are very systematic in nature organized by cooperation between the employer and employee for the production or distribution of goods and services calculated to satisfy human wants and wishes. Only because there is absence of profit motive or gainful objective, as noted, by their lordship, the management institute does not cease to be the Industry as defined under Section 2(j) of the ID Act. Their Lordship of Supreme Court in the above said Ahmedabad Textile Industry's Research Association *Vs.* S.O. Bombay and Ors. case have also taken the view which was earlier taken by the court in the above said Bangalore Water Supply and Sewerage Board's case. Therefore, I must record a finding to the effect that the management institute is an 'Industry' and the dispute raised by the first party workmen is maintainable.

12. As far as, merits of the case, the facts undisputed are that the management has got its own assessment policy for promotion being governed by Memorandum and Rules at Ex. M1 and the norms and guidelines for recruitment and promotions at Ex.M2. It is again not in dispute that the promotion is not based on the vacancy available with the management or the seniority of the workman concerned but is based on merits and performance. There is a clear admission in the statement of WW1 himself that all the employees performance assessment is being done within 5 years by Expert Committee Members subsequent to 1988 and they had no dispute with the management prior to the year 1988. He also admitted that Ex.M2 contains the guidelines and norms on Recruitment and promotion to the employees and the promotion of the employee is not based on vacancy. He admitted that normally in every five years performance of employees being assessed by the Expert Committee members who are two steps ahead in grade of the employee assessed. He also admitted that members will be getting inputs from the concerned head of the department and will look into the confidential reports and will have interaction with the employees concerned giving him a chance to explain the achievements made by him. He also admitted that members of the committee on their assessment will be either recommending for status quo or his promotion and in some cases just recommending for additional increments and based on those recommendations the Director will be passing the orders. Therefore, the promotion policy adopted by the management is not at all being questioned by the first party workmen in this case. What they assert is that they are equally competent having good performance putting long tenure of service but have been denied the promotion and whereas juniors to them have been given the said benefit of promotion in preference to their claim. Their further contention is that promotion policy rather the assessment

of the performance of the first party has not been done at all and even if it has been done has not been done properly, undisputedly they had unblemished record of service and faced no show-cause notice or memo, chargesheet or any enquiry with regard to the misconduct committed by them and therefore, there was no reason for the Expert Committee to ignore their claim.

13. Whereas, learned counsel as noted above, has argued that the policy of promotion has been meticulously followed and rules are adhered to while putting the employees shown in Ex. W4 in proper placements and those were the contingent employees to be regularized in service as late as 1993 and promotions were given to them in the year 1994. First of all the contention of the management that these 35 employees have been given proper placement and that they are not promoted, appears to be factually incorrect and as against the very documents produced by the management itself namely the letters issued to the said 35 workmen at Ex. M11 series. Each and every letter is to speak to the fact that the above said 35 employees have been upgraded from the existing position to the next higher position. That apart the management has also produced before this tribunal a statement giving the details of staff members namely the above said employees marked before this tribunal at Ex. M3. Under the column status as on 31-10-2001 all these employees have been shown to be promoted w.e.f. 1-10-2001. However, as far as under the column 'proper placement' of them have been shown given placement w.e.f. 1-10-1994. But this information in Ex. M3 stating that the above said employees have been given proper placement and not the promotion/up gradation goes against their own document namely the aforesaid Ex. M11 series letters issued to the aforesaid employees making it very much clear that all of them have been upgraded from their existing position to the next higher position. Therefore, contention of the management that it was not the case of promotion but was the case of placement deserves no merit. There is again no force in the contention of the management that all these workmen were the contingent employees. From the very statement submitted by the management at Ex. M3, it can be very well gathered that out of 35 employees there were only 17 contingent employees whose services were regularized some where in the month of April 1993. The other employees had joined the services of the management as long back as some where in the years 1985, 1986, 1987, 1988 and so on. Though the management all along in the counter statement as well as in the statement of MW1 maintained to say that the employees upgraded are given proper placement and they were the contingent employees but very strangely a suggestion was made by MW1 in his cross examination eliciting from his mouth that except 13 employees shown in Annexure -B to the Claim Statement, rest of the employees were contingent employees

waiting for their permanent placement. Therefore, there being self contradictory and self denying evidence produced by the management on the point whether it was a case of proper placement or promotion and on the point whether these were only the contingent employees, it was rightly argued for the first party workmen that this circumstance itself must speak to the fact that there has been lot of confusion in the mind of the management itself and in the result it cannot be said that promotion policy has been followed in its true spirit.

14. The next question to be considered in this context would be whether the Expert committee adhered to the procedure to be adopted for assessment of the performance of the employees concerned while upgrading the other employees. The management took up the contention that the expert committee apart from being fed by the heads of the department and taking into consideration the over all performance of the employee and his Confidential Report may also call for, the employee concerned holding an interview and it is the case of the management that calling for interview is the discretion of the committee. MW1 in his cross examination in no uncertain terms admitted that they have not called for interview these 34 workmen (shown in Annexure A) and have also not called for interview the above said 35 workmen who were upgraded as per Annexure-B. It is in this view of the matter one cannot brush aside lightly the contention taken by the first party workmen that if at all there was any assessment by the Expert Committee it was quite casual in nature without application of mind and the very fact that none of the employee was interviewed by the Expert Committee would reflect upon the assessment undertaken by it. Though the management wanted to say that over all performance of the employees including the first party workmen has been taken into account while giving proper placement/upgradation to the aforesaid 35 employees, no document was produced before this tribunal that any such exercise actually has been done. The confidential reports at Ex. M4 and M5 do not concern to the employees promoted or the first party workmen. Report at Ex. M6 of course gives the names of about 35 workmen and others but there is no mention that along with them other employees much less the case of the first party workmen was considered and they were found unfit. It is not the case of the management that the first party workmen after being assessed were found unfit or that their performance was below the mark or that anyone of them was involved in any activities of misconduct. Therefore, it is in this view of the matter a question arises as to what was the actual basis for the assessment of the performance of the employees upgraded and what was the ground on which the first party workmen were denied promotion though they happened to be very much senior to the employees promoted having long tenure of service at their credit. In these circumstances, it cannot be said that the grievance of the first party workmen is

without any basis. However, as contended for the management the first party workmen have got the right to be considered for promotion and not right of promotion and therefore, the management cannot be given any direction by this tribunal to promote these employees straight way. The only direction to be issued by this tribunal would be to consider the case of the employees for the purpose of promotion/upgradation.

15. The principle laid down by their lordship of Hon'ble High Court in the above said two cases cited on behalf of the workman will not be applicable to the facts of the present case. In the instant case the management has got its own promotion policy and norms of guidelines as per Ex.M1, M2 to be followed in considering the case of the promotion of the employees working under it. It is on record and has come in the statement of WW1 referred to supra that during the course of conciliation, the management had offered to set up one more Expert Committee to go into the grievance of the first party workmen and the union did not accept the offer. Therefore, under the facts and circumstances of the case, the only proper and workable order to be passed by this tribunal would be by giving the direction to the management to consider the case of each of the workman in the light of its promotion policy by setting up an Expert Assessment Committee giving opportunity of hearing to each of the workman by holding an interview. Accordingly the reference is answered and following award is passed:

AWARD

The management is directed to constitute an Expert Assessment Committee to go into the grievances of each of the first party workman as far as their promotion to the next cadre is concerned in the light of the promotion policy adopted by it as per Ex.M1 and M2 by giving an opportunity of hearing to each of the workman by holding an interview and this exercise shall be completed by the management within 3 months of the publication of this award. No costs. (Dictated to PA transcribed by her corrected and signed by me on 28th April, 2006).

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 18 मई, 2006

का. आ. 2264.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आल इंडिया रेडियो के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 74/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-5-2006 को प्राप्त हुआ था।

[सं. एल-42012/155/1990-आई.आर(डी.यू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 18th May, 2006

S.O. 2264.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 74/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of All India Radio and their workmen, which was received by the Central Government on 18-5-2006.

[No. L-42012/155/90-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT: SHRIKANT SHUKLA, Presiding Officer

I.D. No. 74/2003

Ref. No. L-42012/155/1990-IR (DU) Dated 12-6-2003

BETWEEN:

Sri Hari Lal
C/o Buneshwar Morya,
Teacher Colony,
Compierganj,
Gorakhpur

AND

The Supdt. Engineer, AIR
Gorakhpur

AWARD

The Government of India, Ministry of Labour has referred the following schedule for adjudication to CGIT-cum-Labour Court, Lucknow vide order No. L-42012/155/1990-IR (DU) dated 12-6-2003.

“Whether the action of the management of All India Radio Gorakhpur in terminating the services of Sri Harilal, Ex. Casual Labour w.e.f. 25-1-1990 is justified? If not, to what relief the workman concerned is entitled to?”

The workman's case in brief is that he was appointed on class IV post on temporary basis on 21-9-1984, however no appointment letter was given to him. In para 6 of his statement of claim he alleges that he worked till 11-1-1990 and in the first para of the claim he has stated he was terminated by oral orders dt. 12-1-1990 of the Supdt. Engineer, All India Radio, Doordarshan, Gorakhpur in absolutely arbitrary and illegal manner. In para 7 of the statement of claim it is also alleged that opposite party had

never allowed the worker to work for 240 days in a calendar year.

Worker has also alleged that one Sita Ram helper was promoted and posted in August, 1988 on the post of technician Doordarshan Kendra, Gorakhpur. After his promotion the post of helper was vacant in Akash Bani Kendra, Gorakhpur. The opposite party had always taken the work from worker on the post of helper, but they have always paid the salary for the post of casual labour only and they had paid 6 days salary for the post of helper in the year 1985.

The worker always demanded his regularisation of service, but opposite party never considered his representation and on 12-1-90, they terminated the services. It is further alleged that the work and post are available and the worker continuously worked since 1984 to Jan. 1990. It is also alleged that opposite party had never disclosed the reasons of termination. Opposite party has also not followed the provisions of Section 25 F of I.D. Act, 1947.

Worker has prayed that oral termination order be quashed and opposite party be directed to pay salary of class IV since 12-1-1984 till date and compensation towards mental & physical agony worker has also prayed that opposite party be directed to regularise the worker.

Worker has filed photo copies of the following documents :

1. Letter Doordarshan Kendra, Gorakhpur No. TV/60/Casual/ 85-86 dt. 31-5-85 purported to be a certificate showing that the worker worked for 83 days during 21-9-84 to 18-3-85 at the rate of Rs. 8.25 per days as casual labour.

2. Certificate Director Doordarshan showing that the worker was invited in the capacity of actor/performer/producer for 6 days during 13-5-85 to 18-5-85 at the fee of Rs.180.

3. Details of work of worker as casual labour showing 161 days from 8-4-85 to 6-1-86, 143 days from 8-1-86 to 28-12-86, 144 days from 1-1-87 to 18-12-87, 64 days from 16-1-88 to 29-12-88, 89 days from 9-1-89 to 30-12-89 & 10 days from 1-1-90 to 11-1-90.

4. Govt. of India, Director General, All India Radio regarding regularisation referring the letter of DOPT OM 49014/4/30-Estt (CC) 8-4-91 (letter is undated and unsigned).

5. Printed paper with no reference.

6. Worker's own application willing to settle the matter through Arbitration.

7. Letter of ALC dt. 10-9-90 addressed to Secretary

Govt. of India (Failure report).

8. Letter of Desk Officer, Govt. of India, Ministry of Labour dt. 15-7-92.

9. 1998 AIR Supreme Court 941. All India Radio vs Supreme Court case law.

10. Worker's application addressed to Supdt. Engineer Akashwani, Gorakhpur (undated) received on 7-1-90 requesting for employment.

11. Letter of Administrative Officer Akashwani, Gorakhpur dt. 23-1-90 informing him that the worker's name is not found the list of Employment Exchange & therefore he cannot be called for interview.

Supdt. Engineer has filed the written statement. The brief facts are that the workman has worked as daily wage casual labourer as per need & requirement under the Head of Office Akashwani Gorakhpur during April 1985, to Jan. 1990. The worker has worked for 161 days in 1985, 144 days in 1987 64 days in 1988, 89 days in 1989 and 10 days in 1990. Worker was not engaged/appointed against a post at Akashwani, Gorakhpur. Worker has never worked 240 days continuously in any calendar year or in the year preceding the last date of engagement. He was engaged as per the need and requirement of the Head of office of All India Radio. Akashwani/All India Radio & Doordarshan were two separate departments of Ministry of Information & Broadcasting, Government of India, New Delhi. Upto 1997 and after 15th Sept. 1997 a separate department of Prasar Bharti. Thus the departments can not be intermingled. Thus the documents contained in Annexure 1 & 2 to the claim does not in any way relate to Akashwani/All India Radio, Gorakhpur. Engagement of worker as daily wager casual labour during 21 Sept. 1984 to March 1985 has not concern with Akashwani/All India Radio, Gorakhpur. The workman has not impleaded Director Doordarshan Kendra, Gorakhpur as such annexure 1 & 2 are of no avail for the adjudication of present dispute.

It is further submitted that the worker did not work against Group D post including helper. Regarding Sri Sita Ram it is submitted that he was a regular employee of Akashwani/All India Radio, Gorakhpur and was promoted i.e. 21-8-88 and thereafter the vacant post was filled in, after selection by appointing & Sri Rajendra Prasad i.e. 20-6-89. Another regular employee Raghu Rai, helper of Akashwani/All India Radio, Gorakhpur was promoted as technician w.e.f. 27-4-89 and thereafter the vacant post of filled ia after selection by appointing Shiv Kumar w.e.f. 26-3-90. Worker has never worked on any post including the post of helper. There were no regularisation rules for casual labourers. Recruitment to the post of helper was being made by calling the names of eligible candidates

from local employment exchange at that time & selection were made from amongst them keeping in view the recruitment rules. The worker himself left engagement of daily wage casual labourer on his own after 12-1-90. Regularisation rules for the first time circulated by DOPT on 10-9-1993. Worker is not entitled to protection under Section 25F read with Section 25 B of the I.D. Act., 1947. It is denied that there was any unfair labour practice. It is submitted that the worker's application contained in Annexure 10 was considered and thereafter replied through letter Jan. 23, 1990. It is also submitted that the worker was not entitled to salary for post of Helper/Asstt. Camaraman as he was a casual labourer. Opposite party has filed photo copies of the following documents;

1. Recruitment rules for various post in AIR.
2. Scheme of the grant of temporary status and regulatisation dt. 10-9-1993.
3. Extract of Section 25F & 25B of I.D., Act, 1947.
4. Award passed in I.D. No. 8/96 by Presiding Officer CGIT-cum-Labour Court passed in between Rama Nand Prasad & Supdt. Engineer, AIR.

Worker has filed rejoinder with photo stat copies of 2 documents i.e. Invitation letter of Door darshan Kendra Gorakhpur & letter of Sansthan Adhikari dt. 8-6-88.

Worker has examined himself and opposite party has examined Sri Nand Lal.

Worker has filed written arguments. Opposite party or his representative has not filed any written arguments. Opposite party has not turned up for arguments on any of the fixed, therefore heard oral submissions of worker's representative alone.

Perused the evidence on record.

Worker Sri Hari Lal has stated that he was appointed as casual labour in Akashwani on 21-3-84 and he worked till 12-1-90 continuously in Akashwani Doordarshan Kendra, Gorakhpur. The work of lighting assistant & that of helper was taken from him. Later on he changed his statement as stated:

“मुझे 24-1-90 तक ड्यूटी करने के पश्चात् मौखिक रूप से निकाल दिया गया।”

He has stated in examination in chief “मैंने वर्ष 1984 से 1990 तक लगातार काम किया। जिसमें मैंने 240 दिन से ज्यादा काम किया है। मुझे छुट्टी में भी काम, इमरजेंसी में काम लिया गया, किन्तु उपस्थित दर्ज नहीं की गई।”

The worker has admitted in the course examination

that no dues are pending towards salary. He has also admitted that he was paid when he worked at the rate of Rs. 8.25 per day. But when he left the service he was getting approximately Rs. 25 per day.

During cross examination the worker has stated that he has no documents with regard to his work in the year 1985, but stated that worked for more than 300 days. Worker has denied that All India Radio & Doordarshan are separate to each other, however he has admitted that both are at a distance of 3 km from each other. He has also stated that he was getting wages from All India Radio. Worker admits that he was not a regular employee instead he was casual employee.

Asstt. Engineer on the other hand stated the Akashwani & Doordashan, both are different departments. Worker has filed photo copy of certain documents on analysing. I find that Annexure 1 is the certificate of Doordarshan Kendra, Gorakhpur Engineer, which shows that the worker was engaged as casual labour for 83 days only during 21-9-84 to 10-3-85 from time to time. This certificate dt. 3-5-85. This does not show that Doordarshan Kendra & Akashwani Kendra are one and the same.

The 2nd Documents is annexure 2 of claim statement i.e. also from Doordarshan Kendra, Gorakhpur. It is in the form of invitation on a fee of Rs. 180 from 13-5-85 to 18-5-85. This does not show that the invitation was acted upon.

Annexure 3 is the table giving the details of engagement of Hari Lal casual labour which shows the working days of the worker datewise from 8-4-85 onwards and the facts emerges as under :

Year	Working days
8-4-85 to 6-1-86	161 days
8-1-86 to 28-12-86	143 days
1-1-87 to 18-12-87	144 days
19-1-88 to 29-12-88	64 days
9-1-89 to 30-12-89	89 days
1-1-90 to 11-1-90	10 days

This makes clear that the worker has not completed even 175 days in any of the calendar year and has worked hardly 100 days preceding his alleged termination.

Who prepared the table is not known. Whether it is issued by Akashwani or Doordarshan Kendra. Not Known. It is also not proved as to who has signed it, but at the same time the worker is bound by the said document. It is also clear from this document that as per invitation letter annexure 2 worker was invited from 13-5-85 to 18-5-85, but

during the same period he is shown in Annexure 3, as if he performed the duties of casual labour.

Annexure 4 to the statement of claim is of the year 1991 and the worker was not in service at that period & as such the same is irrelevant.

It is pertinent to mention here that Doordarshan Kendra was not a party before the conciliation proceedings.

Worker's application Annexure 10 to the statement of claim is on record which is reproduced as under :

सेवा में,

अधीक्षण अधिकारी

आकाशवाणी, गोरखपुर

विवर : हेल्पर पद पर नियुक्त हेतु आवेदन।

महोदय,

विश्वस्त सूत्रों से ज्ञात हुआ है कि आपके अधिनस्थ हेल्पर के पद रिक्त है प्रार्थी उक्त पद हेतु अपना आवेदन पत्र आपकी सेवा में प्रस्तुत कर रहा है। प्रार्थी की योग्यता एवं अनुभव निम्नवत् है।

योग्यता: इण्टर

अनुभव: (1) दूरदर्शन गोरखपुर में दि 21-9-84 से 31-5-85 तक लाइट असिस्टेंट एवं आकस्मिक मजदूर के पद पर कार्य किया।

(2) प्रार्थी आकाशवाणी गोरखपुर में अप्रैल 85 के अन्त तक विभिन्न कारों को जैसे पर्यावरण कर्डीशिप प्लान्ट, हाई पावर ट्रांसमिशन, कंट्रोल रूप, पेटिंग स्टूडियो कार्बरेज, ओ.वी. कार्बरेज के साथ स्टूडियो गार्ड एवं मैसेजर का भी कार्य। साथ ही साथ रेटिवेंड ट्रांसमिशन में दैनिक वेतन पर कार्य किया है।

(3) प्रार्थी का इम्प्लाइमेन्ट द्वारा दूरदर्शन एवं आकाशवाणी के साथ-साथ स्टाबलेशन में भी काम आ चुका है।

रोजगार पंजीयन सं : एक्स.सी./20/सी./8004/84

प्रार्थी उत्तर प्रदेश गोरखपुर जनपद का स्थायी निवासी है। प्रार्थी पिछड़ी जाति का है। प्रार्थी के माता पिता का स्वार्गवास हो चुका है। प्रार्थी शादी शुदा है। प्रार्थी असहाय एवं निधन है।

अतः आपसे निवेदन है कि प्रार्थी की योग्यता एवं अनुभव को ध्यान में रखते हुये, इस पद पर सेवा करने का अवसर प्रदान करने की कृपा करें।

प्रार्थी

ह.-

(हरिराम)

कार्यरत दैनिक वेतन भोगी कर्मकार
आकाशवाणी गोरखपुर

The above letter is addressed to Supdt. Engineer, Akashwani, Gorakhpur. The said letter appears to have been got received in the office of Supdt. Engineer, Akashwani on 19-1-90.

The bare reading shown that Doordarshan & Akashwani Kendra are two distinct on industries. Worker alleged in the said application that from 21-9-84 to 31-5-85 he has worked at Doordarshan Kendra, Gorakhpur & since about 1985 he is working in Akashwani. Through the said letter the worker has requested Supdt. Engineer for appointing him as helper. The Administrative Officer of the Akashwani has replied on 23-1-90 that since his name has not been forwarded by the Employment Exchange & hence it is not possible to call him for interview.

Worker another document is Annexure No. R-2 which he has filed with rejoinder which is reproduced below:

भारत सरकार

कार्यालय संस्थान अधिकारी

आकाशवाणी, गोरखपुर

चंपाक : गो/3ए/10/8/88-संस्था/86

दिनांक 8-6-88

सेवा में,

हरीलाल आत्मव श्री चोकर

रेलवे 10ए, 'डेरी कालोनी'

गोरखपुर

महोदय,

सेवायोजन कार्यालय, गोरखपुर द्वारा प्राप्त सूची के आधार पर आप कृपया साक्षात्कार हेतु दि 21-6-88 को प्रातः 10 बजे अधोहस्ताक्षरी के सम्मुख प्रस्तुत हो।

पद एवं कार्य विवरण इस प्रकार है।

(1) पद का नाम : आकस्मिक श्रमिक

(2) भुगतान दर : 20.75 प्रति दिन

(3) कार्य की अवधि : लगभग 6 माह (जिसे आवश्यकता अनुसार बटाया या बढ़ाया जा सकता है।

कृपया ध्यान दें कि कार्य दैनिक भुगतान के आधार पर ही तथा किसी भी प्रकार की स्थायी नियुक्ति की संभावना नहीं है। साक्षात्कार हेतु कोई यात्रा भत्ता देय नहीं होगा।

ह.

(प्रकाश शुक्ला)
संस्थापन अधिकारी
आकाशवाणी, गोरखपुर

Worker was called for interview to work as casual labour at the date of Rs. 20.75 per day. This letter is dt. 8-6-88 and according to the worker he was working with opposite party since prior to 8-6-88.

From about this fact it is clear that Akashwani and Doordarshan Kendra are two different industries.

As we have come to the conclusion that All India Radio and Doordarshan both the distinct industries and both are managed by its employers. Worker has tried to confuse the court by clubbing his employment under Doordarshan Kendra and under Akashwani into one. In the present case Doordarshan Kendra is not the party. Annexure I of the claim of statement is the certificate issued by the Kendriya Abhiyanta, Doordarshan Kendra, Gorakhpur which shows worker has worked from 21-9-84 to 18-3-85 for 83 days from time to time as casual labour. This certificate has not been issued by Akashwani/All India Radio, instead it has been issued by Doordarshan Kendra alone. Therefore, annexure I has nothing to do with the employment with Akashwani/All India Radio. Similarly the second document is annexure II to statement of claim which has been issued by Drama Section of the Doordarshan Kendra purported to be signed Doordarshan Kendra, Gorakhpur. This document has also nothing to do with the Akashwani/All India Radio, Gorakhpur. Worker's claim that he was appointed on class IV on temporary basis on 21-9-84 is false, because the worker was never appointed on class IV post on temporary basis by Akashwani/All India Radio (opposite party).

Worker has alleged in the para 7 of the statement of claim that the worker was not allowed by the opposite party to complete 240 days in a calendar year. Opposite had always shown artificial breaks in the service of the worker. At the same time the worker has stated in cross examination that in the year 1985 he worked for more than 300 days. This statement is contradiction to the statement made in the statement of claim. According to the worker's own document he has not worked for more 161 days in any year with the opposite party. It is therefore proved that worker willfully states untrue facts in the cross examination.

It is also admitted fact in the cross examination that the worker was daily wager. It is also admitted fact that it was only All India Radio who was paying the wages to the worker therefore worker's claim that he was employed in Doordarshan Kendra/All India Radio is false. It is also false that he was regular class IV employee. The casual labour cannot claim equal pay to that of the regular employee.

It is also admitted fact that worker was terminated much before the regularisation scheme came into force.

The regularisation scheme came into force w.e.f. 1-1-93 and this scheme was applicable to the casual labours in the employment:

The section 25B of the I.D. Act is produced below;

25B: Definition of continuous service : For the purposes of this chapter :

(1) A workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock out or a cessation of work which is not due to any fault on the part of the work and;

(2) Where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer:

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than.

(i) one hundred and ninety days in the case of a workman employed below ground in mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the workman during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than;

(i) ninety five days in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case.

Worker has to prove that he did work 240 days during a period of 12 calendar months preceding the date of his termination and the worker has measurably failed to prove if and since the worker has not worked 240 days in a calendar year he is not entitled to any notice, with regard to the termination and provisions of section 25 F are not attracted. It is also noteworthy that the worker has stated contradictory facts in the statement of claim and in the oral evidence in the court. He has stated in para 9 of the claim statement that he was terminated on 12-1-90 whereas in examination in chief he has stated that he was terminated on 24-1-90. Thus the worker is not trustworthy. Annexure

10 is if taken to be true is the previous statement of the worker who has written a application to the Supdt. Engineer Akashwani, Gorakhpur wherein he has stated that he is working since April 1985 is Akashwani Gorakhpur and he requested to be appointed on the post of helper. This is in a form of application wherein he has requested for appointment on the post of helper. This also makes clear that Akashwani is separate entity. The application was adequately replied by the Administrative Officer on 23-1-90. It is not a application for regularisation.

The worker has filed annexure 9 i.e. 1998 AIR Supreme Court 911 All India Radio Vs Santosh Kumar and another. This shows that All India Radio and Doordarshan are not Sovereign but they are industries. Although the entire case law is not legible. Nature of engagement of the worker read with Annexure 3 to statement of claim, it is found that the worker was intermittently employed by the Akashwani from April 1985 to 11-1-90 for the duration which is mentioned earlier.

The worker has filed two case laws as mentioned below;

1. (1982) I Supreme Court Cases 645 L Robert D' Souza vs executive Engineer, Southern Railway and another.

2. (2002) 10 Supreme Court Cases 49 Nagar Panchayat, M.P. vs Divan Chand Taneja and Another.

Facts of both the cases are different and they are not applicable to the present case.

(2005) (7) Supreme 307 (Supreme Court of India) Surendranagar District Panchayat vs Dahyabhai Amarsinh, following principle laid down in the said case law; Held: More recently in Rajasthan State Ganganager S. Mills Ltd. vs State of Rajasthan & Another (2004) 8 S.C.C. 161, Municipal Corporation, Faridabad vs Sri Nawas (2004) 8 S.C.C. 195 and M.P. State Electricity Board vs Hariram, (2004) 8 S.C.C. 246, this court has reiterated the principal that the burden of proof lies on the workman to show that he had worked continuously for 240 days in the preceding one year prior to his alleged retrenchment and it is for the workman to adduce an evidence apart from examining himself to prove the factum of his being in employment of the employer. In the light of the aforesaid it was necessary for the workman to produce the relevant material to prove that he has actually worked with the employer for not less than 240 days during the period of twelve calendar months preceding the date of termination. What we find is that apart from the oral evidence the workman has not produced any evidence to prove the fact that he has worked for 240 days. No proof of receipt of salary or wages or any record

or order in that regard was produced; no co-worker was examined; muster roll produced by the employer has not been contradicted. It is improbable that workman who claimed to have worked with the appellant for such a long period would not possess any documentary evidence to prove nature of his engagement and the period of work he had undertaken with his employer. Therefore, we are of the opinion that the workman has failed to discharge his burden that he was in employment for 240 days during the preceding 12 months of the date of termination of his service. The Courts below have wrongly drawn an adverse inference for non-production of the record of the workman for ten years. The scope of enquiry before the Labour Court was confined to only 12 months preceding the date of termination to decide the question of continuation of service for the purposes of Section 25 of the Industrial Disputes Act. The workman has never contended that he was regularly employed in the panchayat for one year to claim the uninterrupted period of service as required under Section 25B(1) of the Act. In the fact & situation and in the light of the law on the subject, we find that the workman respondent is not entitled for the protection or compliance of Section 25F of the Act before his service was terminated by the employer. As regards non-compliance of Section 25 G and 25H suffice is to say that witness Vinod Mishra examined by the appellant has stated that no seniority list was maintained by the department of daily wagers. In the absence of regular employment of the workman, the appellant was not expected to maintain seniority list of the employers engaged on daily wages and in the absence of any proof by the respondent regarding existence of the seniority list and his so called seniority no relief could be given to him for non-compliance of provisions of the Act. The courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the court. In order to entitle the court to draw inference unfavourable to the party, the court must be satisfied that evidence is existence and could have been proved.

The onus on the workman to prove that he has continuously worked in 12 calendar months preceding his termination on 12-1-90. But the worker himself has not proved with reliable that he did work for 240 days in 12 calendar months preceding his termination. Therefore even it is presumed that the worker was terminated on 12-1-90, there is no act of illegality on the part of the management of All India Radio, Gorakhpur. The issue is accordingly in favour of the management and the worker is not entitled to any relief. Award accordingly.

नई दिल्ली, 18 मई, 2006

का. आ. 2265.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 24/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-5-06 को प्राप्त हुआ था।

[सं. एल-40012/104/2003-आईआर(डी यू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 18th May, 2006

S.O. 2265.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2004) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Post and their workmen, which was received by the Central Government on 18-5-06.

[No. L-40012/104/2003-IR(DU)]

SURENDER SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT

Shrikant Shukla, Presiding Officer

I.D. No. 24/2004 Ref. No. L-40012/104/2003-IR
(DU) Dt. 20-1-04

BETWEEN

Sh. Harish Prasad Bhatt
S/o Late Sh. Ghanshyam Bhatt through
Bhartiya Mazdoor Sangh, 32, Chakrata Road,
Dehradun

AND

The Supdt. of Post Offices
Dept. of Posts, Tehri Division
New Tehri, Garhwal
The Chief Post Master General
Dept. of Posts, Uttranchal Divn.
Dehradun

AWARD

The Govt. of India, Ministry of Labour, New Delhi referred the following dispute No. L-40012/104/2003-IR (DU) dated 20-1-2004 for adjudication to the Presiding Officer, CGIT-cum-Labour Court, Lucknow;

“Whether the action of the Management of Supdt. of Post Offices Tehri in terminating the

services of Sh. Harish Prasad Bhatt S/o Late Sh. Ghanshyam Bhatt, Jeep Driver w.e.f. 1-2-2003 is justified? If not to what relief the workman is entitled?”

The worker's case in brief is that he was initially duly selected and appointed/engaged as Jeep Driver on 1-11-1999 for performing regular and perennial nature of work. It is alleged that the aforesaid appointment of the workman was regular. He was paid salary on monthly duration alongwith other regular employees. The monthly salary of the worker was computed @ Rs. 3050/- and was paid on voucher. No written appointment letter was issued to him with the intention to deprive him of the legitimate benefits available under the condition of service. It is also alleged that workman was not allowed to work from 1-2-2003 without any reason. It is also alleged that at the time of termination workman was not paid any retrenchment compensation or notice, pay in lieu thereof. It is also alleged that the termination of the workman is arbitrarily in violation of provision of Section 25 F of the I.D. Act. It is submitted that during the course of his service the conduct of the workman remained outstanding. It is also submitted that after termination of the services of the workman the opposite party has appointed juniors/other persons in his place. Worker has therefore prayed for setting aside oral termination order 1-2-2003 and sought reinstatement with all consequential benefits including with full back wages.

Opposite party has filed the written statement in which he has disputed the claim of the workman and has submitted that the worker was engaged on daily wages to perform the duty of Driver purely on temporary basis in stop arrangement till the arrival of the regular incumbent, on the responsibility of his elder brother Kushalanand who is a class IV employee in the department. The engagement was purely on casual basis when the necessity of the driver of vehicle arose. It is also submitted that the vehicle driven by the worker was not being used every day accordingly, the worker was paid remuneration for those days on which the vehicle was used. The calculation of the daily remuneration of the worker was done on the basis of minimum wages of Rs. 3050/- admissible to a jeep driver. Since the appointment of the worker was not on regular basis no annual increment or other benefits were available to him which are available to the regular employees. Since the worker was not a regular employee as such no appointment order was issued to him. On Shri D.S. Negi who was regular driver was transferred to Tehri vice Order dt. 30-1-2003 therefore the services of the worker on daily wage basis was not required from 1-2-2003. As worker was not regular employee of the department and he was not formally terminated once there was no question of retrenchment compensation or issue of notice, to the worker and as such the provision of Section 25 F or 25 G of the I.D. Act are not applicable. It is also submitted that the work and performance of the worker was not satisfactory as he met accident twice. It is also pleaded in the written statement

that as per the policy of the Govt. of India, post of driver in the office of opposite party has been abolished but since the vehicle was available in the Tehri Division has posted one Sri D.S. Negi a permanent driver in the office of the opposite party. Since there is only one vehicle as such there is no necessity for engaging any person on daily wage. It is also pleaded that as per the policy of the Govt. of India drivers can be engaged only on daily wages on daily basis if the permanent driver is not available. There is no provision in the department to regularize or absorb the daily wagers on the permanent post of driver. In view of above the claim of the worker is misconceived and devoid of merits, as such the claim statement is liable to be dismissed, therefore reference is liable to be answered in negative.

After filing of the written statement the worker has filed rejoinder.

Worker has not denied specifically that he met accident twice in service.

Worker has filed following photo copies of the documents;

1. Original receipt of application to the post of jeep driver.
2. Photo copy of payment voucher dt. 1-1-2000.
3. Photo copy of acquittance roll for May 2000.
4. Photo copy of acquittance roll for period of June 2000.
5. Photo copy of acquittance roll for period of July 2000.
6. Photo copy of acquittance roll for period of August 2000.
7. Photo copy of payment voucher dt. 3-10-2000.
8. Photo copy of payment voucher dt. 2-11-2000.
9. Photo copy of payment voucher dt. 1-12-2000.
10. Photo copy of payment voucher dt. 1-12-2001.
11. Photo copy of payment voucher dt. 3-4-2001, 27-1-2001, 31-8-2001, 30-8-2001, 1-10-01, 1-11-01, 3-12-01, 1-1-02, 1-3-02, 6-8-2002, 2-9-2002, 1-10-2002, 31-1-03.
12. Original receipt of application dt. 1-2-003.
13. Original receipt of application dt. Nil, receipt No. 4-7-2002.
14. Original experience certificates dt. 5-7-2002.

Worker has examined himself and closed his evidence where as the opposite party has examined Asstt. Supdt. Post Office Sri R. C. Rathore.

Heard learned representatives of the parties and perused evidence on record.

It is admitted fact that worker was not given by appointment letter while his appointment was made nor he was issued any termination order. Normally every regular employee the officer of appointment and after acceptance of officer, the order of appointment are issued as per rules.

Worker has filed voucher in respect of his appointment and according to the document which is filed

by the worker showing it to be payment voucher dt. 1-1-2000. It is clear that this document is not the voucher but it is a office order dt. 1-1-2000 with following typed contents are signed by the Supdt. Post Office, Tehri Division.

"In accordance with orders contained in D.G. P and T New Delhi communication number 20-7-58 Exau/Sro dt. 12-2-60 as received from time to time, sanction of the Supdt. of Post Offices Tehri Division, Tehri is hereby accorded for payment of the wages of the following for number of days engaged in different arrangement made by the competent authority in short term vacancies when leave reserved staff of various categories of the unit exhaust. The persons engage will be adjusted from contingency."

Aforesaid document shows that the worker was paid from contingency and the rate per month was Rs.3050/- It also shows that he is not for regular employee.

In May, 2000 the worker was paid Rs. 4074 in June 2000 he was paid Rs. 3367/- similarly in July he was paid Rs. 937/- in Aug. 2000 he was paid Rs. 3395.

There is yet another document filed by the worker which is dt. 3-10-2000 with the same typed contents and in the column of rate per month is Rs. 3050/- is written similarly there are other document also which go to show that the rate per month was Rs 3050/- It is also noteworthy from the perusal of above documents that the worker was engaged against the vacant post of driver. Thus, all documents go to show that the worker was employed at the consolidate salary of Rs. 3050/- per month in the vacant post of driver. Thus it is provided that he was not a regular employed driver. But was engaged temporarily in the stop gap arrangement worker has filed photo copy of experience certificate. Supdt. Post Office in respect of his service 1-11-99 to 5-7-02.

Worker has stated in his cross examination that he is said that casual employees are paid on voucher where as regular employees are paid through register. Since the worker was not a regular driver/casual driver, Worker has again stated that.

"यह सही है कि नियमित ड्राइवर न होने से मेरी नियुक्ति दैनिक वेतन पर की थी।"

Worker has in the cross examination when the regular driver Shri D. S. Negi came on transfer on 30-1-03 he was disengaged. However, he has admitted that D.S Negi is a regular driver. Worker has not stated in his examination in chief that any casual worker has been engaged in his place.

It is a proved fact from the documentary and oral evidence that the worker was engaged as he was younger brother of class-IV employee of the opposite party. The photo copy of the application has been filed by the worker and Sri R. C. Rathore has also stated that"

"मेरे विपाग में एक कुशलानन्द नाम के चतुर्थ श्रेणी कर्मचारी हैं उनके प्राता हरीश प्रसाद भट्ट हैं। कुशलानन्द की जिम्मेदारी पर श्री

हरीश प्रसाद भट्ट की दैनिक वेतन पर छाईवर के काम चलाने हेतु रखा गया था। क्योंकि नियमित छाईवर उस समय विभाग में उपलब्ध नहीं था। जनवरी 2003 में धीरेन्द्र सिंह नेगी का देहरादून से टिहरी के लिए स्थानान्तरण आदेश हुआ जो विभाग के रेगुलर छाईवर थे। श्री नेगी के कार्यभार प्राप्त कर लेने पर 1-2-03 से हरीश प्रसाद भट्ट से काम लेना बंद कर दिया गया।

श्री हरीश प्रसाद भट्ट रेगुलर छाईवर नहीं थे बल्कि उन्हें स्टाफ अरेजमेंट के दैनिक वेतन पर रखा गया था। नियमित छाईवर के आने पर श्री भट्ट की सेवायें स्वतः ही समाप्त होंगी, जब-जब भट्ट की जरूरत पहुंची थी बुला लिया जाता था। हरीश प्रसाद भट्ट से उनकी सेवा के द्वारा काफी बड़ी दुर्बंधना हुई थी। जिसमें गाड़ी काफी क्षतिप्रस्त हो गई थी। गाड़ी की क्षति की भरपाई श्री हरीश भट्ट ने की थी।

पोस्ट आफिस इन्डस्ट्री नहीं है इसलिए इस न्यायालय को मुकदमा सुनने का अधिकार नहीं है।

सरकार की नीति अब विभाग में छाईवरों की नियमित की नहीं है। हरीश प्रसाद भट्ट को नियमित नौकरी नहीं दी जा सकी।

The said witness of the management has also admitted that the worker has worked for more than 240 days before his termination the relevant extract of his statement is reproduced below:

“श्री हरीश प्रसाद भट्ट ने आखिरी दिन 31-1-2000 को काम किया (एक) 1 फरवरी 2000 से 31 जनवरी तक कुल 331 दिन काम किया।

1-11-99 से हरीश प्रसाद भट्ट ने कार्य किया।

1-11-99 से 31-12-99 तक 52 दिन काम किया।

1-1-2000 से 31-12-2000 तक 341 दिन कार्य किया।

1-1-2001 से 31-12-2001 तक 357 दिन काम किया।

जनवरी 2002 में कुल 30 दिन काम किया।”

The witness has also proved that as long as regular employee is not joining for service the daily wagers are engaged in stop gap arrangement.

From above evidence on record following facts are proved:

1. Worker started his services at the consolidated salary of Rs. 3050/- per month w.e.f. 1-11-99 and he worked till the last date of Jan. 02 and thereafter he was not engaged.
2. His engagement was in stop gap arrangement.
3. Worker was not a regular employee of the opposite party.
4. The salary was being paid as per the orders of the opposite party.
5. There is relationship of employer and employee amongst the parties.

There is no distinction between the regular workman or a casual workman.

Section 25B defines about continuous service which is reproduced below:

“25 B Definition of continuous service for the purpose of this chapter:

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or on an accident or a strike which is not illegal, or a lock out of a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (d) for a period of one year of six months he shall be deemed to be in continuous service under an employer;

(a) for a period of one year, if the workman during a period of twelve calendar months preceding the date with reference to which calculations is to be made, has actually worked under the employer for not less than;

(i) one hundred and ninety days in the case of a workman employed below in a mine; and

(ii) two hundred and forty days, in any other case.

(b) for a period of six months, if the workman during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than;

(i) ninety five days in the case of workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case. In the scheme of the I.D. Act it is laid down that the person who has worked for more than 240 days or more in a calendar year preceding his termination, he was not be retrenched unless notice, notice pay in lieu of notice compensation is given. Section 25 F is reproduced below; 25 F Conditions precedent to retrenchment of workmen : No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until:

(a) the workman has been given one months' notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice, wages for the period of the notice;

(b) the workman has been paid at the time of retrenchment compensation which shall be equivalent to fifteen days average pay (for every completed year of continuous service) or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government (for such authority as may be specified by the appropriate Government by notification in the Official Gazette”

It is also true that worker has not been apprised of the fact that he was engaged in stop gap arrangement for specific period. In the circumstances the workman could have retrenched been only after giving notice, notice pay compensation. But the opposite party has not fulfilled its obligation and therefore the disengagement of the worker from service w.e.f. 1-2-03 is unjustified and illegal. No doubt the employer is at liberty to retrench any person from service but the same has to be done in accordance with law and in the present case the opposite party has violated the provision of I.D. Act. The office of Supdt. Post Office is a industry and as such the issue is decided against the management and in favour of the workman.

Now the question is what is the relief the worker is entitled to.

The representative of the opposite party has filed following case laws; (2002) 10 Supreme Court Cases 422 between Pyare Jan and another Vs. Karnataka Electricity Board and Another. In the said case it was held is as under:

Held : The court usually considers the case of payment of lump sum compensation instead of directing reinstatement and back wages when it appears that the employer has lost trust and confidence in the employee for some misconduct on the part of the employee. But this is not one of such cases and therefore taking into consideration the young age of the employees. It may not be proper to direct payment of compensation in lieu of reinstatement. In the course of hearing of this case, it was pointed out that even if the employees are reinstated, they would not be entitled to any promotion, because the qualifications prescribed by the respondent Electricity Board. The employees are quite cognizant of the said qualifications yet. It was prayed on their behalf that they should be reinstated in service. In this view of the matter order of the Single Judge as affirmed by the Division Bench of the High Court is set aside. The award of the Labour Court will also stand modified to the extent that the employees will not be entitled to any back wages for the period they were out of service.

Appeals disposed of."

(1980) 4 Supreme Court cases 443 between Surendra Kumar Verma and others vs. Central Govt. Industrial Tribunal-cum-Labour Court, New Delhi and another. It is held that:

Held : The workman and the employer are primarily concerned with the consequence of striking down the order of termination of the services of the workman, and the question whether the termination in violation of the provisions of Section 25F, Industrial Disputes Act is void ab initio morally invalid and inoperative and is not of much relevance in the context.

Striking down of an order of terminating the services of workmen must ordinarily lead to the reinstatement with

back wages. But there may be exceptional circumstances which make it impossible or wholly inequitably vis-a-vis the employer and workmen to do so. In such situations, there is a vestige of discretion left in the court to make appropriate consequential orders. Generally the relief must be awarded where no special impediment in the way of awarding the relief is clearly shown. True, occasional hardship may be caused to an employer, but more often than not, comparatively for greater hardship is certain to be caused to the workman if the relief is denied than to the employer if the relief is granted."

In the present case there is no special impediment in the way of awarding the relief. The relief would not put the workmen on a par with those who had qualified for permanent absorption by passing the prescribed test because firstly, the reinstatement would not justify them for permanent absorption and secondly, there is no evidence to suggest that their reinstatement would be a cause for dissatisfaction to anyone. There is also no hint in the record that any undue burden would be placed on the employer if the same relief is granted. Santosh Gupta vs. State Bank of Patiala (1980) 3 SCC 340 : 1980 SCC (L&S) 409 : (1980) 2 LLJ 72 : Hindustan Steel Ltd. Vs. Presiding Officer, (1976) 4 SCC 222 : 1976 SCC (L&S) 583 : (1977) 1 SCR 586 : Avon Service Production Agencies (P) Ltd. vs. Industrial Tribunal (1979) 1 SCC 1, 14 : 1979 SCC (L&S) 15, 28; Swadesmitran Ltd. Madras v. Workmen, (1960) 3 SCR 144, 136 : AIR 1960 SC 762 (1960) 1 LLJ 504; 79 FJR 46; Punjab National Bank vs. the All India Punjab National Bank Employees Federation (1960) 1 SCR 806; AIR 1960 SC 160: (1959) 2 LJ 665; 17 FJR 199; National Transport and General Co. Ltd. vs. Workmen Civil Appeal No. 312 or 1956 decided on Jan. 22, 1957 and State Bank of India vs. N. Sundara Money (1976) 1 SCC 822 : 1976 SCC (L&S) 132, 137 : (1976) 3 SCR 160, 166 relied on.

The Supreme Court, however, superimposed the condition that salary on reinstatement of the workmen will be the salary which they drawing when they were retrenched (subject of course of any revision of scales that might have been made in the meantime) and the period from the date of retrenchment to the date of reinstatement will not be taken into account for the purpose of reckoning seniority of the workmen among temporary employees.

1995 Supp. (4) Supreme Court cases 549 between Rolston John vs. Central Government Industrial Tribunal-cum-Labour Court and another. In this case law due to long lapse time reinstatement was refused and compensation of Rs. 50,000 was awarded. (1995) 3 Supreme Court Cases 474 between Hindustan Steel Works Construction Ltd. and others vs. Hindustan Steel Works Construction Ltd. Employees Union, Hyderabad and another. Hon'ble High Court has laid down following principle of law; "Labour Law—Retrenchment—Unjustified retrenchment—Proper relief—Reinstatement or compensation—Where the Industrial Tribunal while finding the retrenchment to be unjustified also found the

employer Corporation to be burdened with excess manpower and therefore, in lieu of reinstatement, awarded compensation, held, it was entitled to do so—Unless the reasons given for such decision were incorrect factually or irrelevant or impermissible in law, the Supreme Court not, in exercise of its power under Art. 136, substitute its own opinion for that of the Tribunal—Industrial Disputes Act 1947, S 7-A and Sch. III Item 10—Constitution of India, Art. 136—Relief—Reinstatement—Compensation in lieu of.”

The management has not proved in this court that there is excess power of driver in Tehri. The management witness Sri R.C. Rathore stated that the policy of the Government is not appoint drivers in the department. In para 15 of the written statement opposite party has written that as per the Govt. of India policy drivers can be engaged on daily wage basis if the permanent drivers is not available and in case there is need for appointment of driver on daily wage basis the opposite party may reinstate it on the conditions on which the worker was working before his disengagement and in case they do not need the services workman on more as daily wager also, the management can dispensed with by paying the worker the following sum;

1. One month salary.
2. Compensation as provided in the I.D. Act.
3. Rs. 50,000 as Special compensation in lieu of back wages and reinstatement.

Award accordingly.

SHRIKANT SHUKLA, Presiding Officer

Lucknow:

12-5-2006

नई दिल्ली, 18 मई, 2006

का. आ. 2266.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटी ए-924/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-5-06 को प्राप्त हुआ था।

[सं. एल-40012/216/2001-आई आर(डी य)]

सुरेन्द्र सिंह, डैस्ट्र अधिकारी

New Delhi, the 18th May, 2006

S.O. 2266.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGITA-924/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their

workmen, which was received by the Central Government on 18-5-2006.

[No. L-40012/216/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT: Shri B. I. KAZI (B.Sc., L.L.M.),
Presiding Officer

Industrial Dispute (Reference C.G.I.T.A.) No. 924/04
Old (I.T.C.) No. 03/2004

1. The General Manager,
Nadiad Telecom District,
BSNL, Sardar Bhawan, Nadiad (Gujarat)

2. The Sub Divisional Officer Telegraphs
B.S.N.L. Telephone Exchange,
Borsad. First Party

V/s.

1. Sh. Govindbhai I. Rohit,
Village Khanpur, Taluka Borsad,
Distt. Kutch.

2. The Org. Secretary,
The Association of Railway and Post
Employees 15, Shashi Apartment,
Nr. Anjalee Cinema Vasna Road,
Ahmedabad-380 007. Second Party

APPEARANCE:

First Party : (Absent)
Second Party : (Absent)

Reference (C.G.I.T.A.) No. 924/04

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by order No. L-40012/216/2001-IR (DU) dated. 14-05-2003 to this Tribunal for adjudication the terms of reference is as under :

SCHEDULE

“Whether the action of the management of Bharat Sanchar Nigam Limited (Telecom Department) in terminating the service of Sh. Govindbhai Trikambhai Rohit is legal, proper and justified? If not, to what relief the concerned workman is entitled to and what other directions are necessary in the matter?”

2. The Second party was issued a notice to file the statement of claim by this Tribunal on 31-03-04. The date to file the statement of claim was 20-5-04. The appropriate Government has also directed the second party who has raised the dispute to file a statement of claim with relevant

document and list of reliance and witness to the Tribunal within 15 days of the receipt of the order.

3. However, the proper opportunity was given by this Tribunal to file a statement of claim to the second party. The second party failed to submit a statement of claim after 1 year from the date of reference. Thus this Tribunal has reason to believe that the second party is not interested in the dispute. Thus the concerned workman failed to prove this case.

Looking to the above observations I hereby pass the following order :

ORDER

The action of the management of Bharat Sanchar Nigam Limited (Telecom Department) in terminating the service of Sh. Govindbhai Trikambhai Rohit is legal, proper and just. The workman is not entitled to get any relief. The reference is hereby rejected for want of prosecution. No order as to cost.

Ahmedabad :

Dated : 13-09-05 B.I. KAZI, Presiding Officer

नई दिल्ली, 18 मई, 2006

का. आ. 2267.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए-1217/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-5-2006 को प्राप्त हुआ था।

[सं. एल-40012/206/2001-आई आर(डी यु)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 18th May, 2006

S.O. 2267.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.CGIT-A-1217/04) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 18-5-2006.

[No. L-40012/206/2001-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT : Shri B. I. KAZI (B.Sc., L.L.M.),
Presiding Officer

Industrial Disputes (Reference C.G.I.T.A.) No. 1217/04

Old (I.T.C.) No. 08/2003

1. The Sub-Divisional Officer (Telecom).
B.S.N.L. Telephone Exchange,
Porbandar-360 575.
2. The General Manager,
BSNL, Junagadh Telecom Distt. Dhal Road,
Junagadh-362 001.
3. The Sub-Divisional Officer,
Telegraphs Telecom Deptt.
Junagadh-362 001.
4. The Chief General Manager,
Khanpur, Ahmedabad-380 001 —First Party
V/s.

The Org. Secretary,
The Association of Railway and
Post Employees 15, Shashi Apartment,
Nr. Anjalee Cinema Vasna Road,
Ahmedabad-380 007 —Second Party

APPEARANCE:

First Party : (Absent)
Second Party : (Absent)

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by Order No. L-40012/206/2001-IR(DU) dated 22-01-2001 to this Tribunal for adjudication the terms of reference is as under :

SCHEDULE

“Whether the action of the management of the Bharat Sanchar Nigam Ltd. (earlier Department of Telecom) is justified in terminating the services of Sh. Chhaganbhai Damjibhai Solanki w.e.f. 20-08-89? If not what relief concerned workman entitled for?”

2. The Second party was issued a notice to file the statement of claim by this Tribunal on 2-04-2002. The date to file the statement of claim was 29-07-2002. The appropriate Government has also directed the second party who has raised the dispute to file a statement of claim with relevant document and list of reliance and witness to the Tribunal within 15 days of the receipt of the order.

3. However, the proper opportunity was given by this Tribunal to file a statement of claim to the second party. The second party failed to submit a statement of claim after 2 years and 5 months from the date of reference. Thus this Tribunal has reason to believe that the second party is not interested in the dispute. Thus the concerned workman failed to prove this case.

Looking to the above observations I hereby pass the following order :

ORDER

The action of the management of Bharat Sanchar Nigam Ltd. (earlier Department of Telecom) is just in terminating the services of Sh. Chhaganbhai Damjibhai Solanki w.e.f. 20-08-89. The concerned workman is not entitled to get any relief. The reference is hereby rejected for want of prosecution. No order as to cost.

Ahmedabad

Dated : 13-09-05

B.I. KAZI, Presiding Officer

नई दिल्ली, 18 मई, 2006

का. अ. 2268.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की भाग 17 के अनुसार में, केन्द्रीय सरकार डाक विभाग के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए-563/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-5-2006 को प्राप्त हुआ था।

[सं. एल-40012/19/2003-आईआर(डी यू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 18th May, 2006

S.O. 2268.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGITA-563/04) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Post and their workman, which was received by the Central Government on 18-5-2006.

[No. L-40012/19/2003-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
AHMEDABAD**

PRESENT : Shri B. I. KAZI (B.Sc., L.L.M.),
Presiding Officer

Industrial Disputes (Reference C.G.I.T.A.) No. 563/04

Old (I.T.C.) No. 37/2003

1. The Chief Post Master General,
Gujarat Circle, Khanpur,
Ahmedabad (Gujarat) 380 001.
2. The Inspector of Post Offices,
Dept. of Posts Bhuj Sub-Division,
Bhuj (Kutch). ...First Party

V/s.

The Org. Secretary,
The Association of Railway and Post
Employees 15, Sahshi Apartment,
Nr. Anjalee Cinema Vasna Road,
Ahmedabad

...Second Party

APPEARANCE:

First Party : (Absent)

Second Party : (Absent)

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by Order No. L-40012/19/2003-IR (DU) dated. 20-06-2003 to this Tribunal for adjudication the terms of reference is as under :

SCHEDULE

“Whether the action of the management of the Supdt. of Post Offices, Kutch Division, Bhuj/Inspector of Post Offices, Bachau Sub-Division Bhachau in terminating/discontinuing the services of Sh. Kanji Harghorbhai Manka, Ex. EDDA, CA, Amballara Post Offices w.e.f. 27-10-1993 orally without following the due procedure under the provisions of the I.D. Act, 1947 is proper and justified? If not what relief the concerned workman is entitled for and since when?”

2. The Second Party was issued notice to file the statement of claim by this Tribunal on 05-08-2003. The date to file the statement of claim was 22-8-2003. The appropriate Government has also directed the Second Party who has raised the dispute to file a statement of claim with relevant document and list of reliance and witness to the Tribunal within 15 days of the receipt of the order.

3. However, the proper opportunity was given by this Tribunal to file a statement of claim to the Second Party. The second party failed to submit a statement of claim after 2 years and four months from the date of reference. Thus this Tribunal has reason to believe that the Second Party is not interested in the dispute. Thus the concerned workman failed to prove this case.

Looking to the above observations I hereby pass the following order :

ORDER

The action of the management of Supdt. of Post Offices, Kutch Division, Bhuj, Inspector of Post Offices, Bachau Sub. Division Bhachau in terminating/discontinuing the services of Sh. Kanji Harghorbhai Manka, Ex. EDDA, CA, Amballara Post Offices w.e.f. 27-10-1993 orally is proper and just. The concerned workman is not entitled to get any relief. The reference is hereby rejected for want of prosecution. No order as to cost.

B. I. KAZI, Presiding Officer

Date : 12-9-2005

Ahmedabad

नई दिल्ली, 18 मई, 2006

का. आ. 2269.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सीजीआईटीए-1044/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-5-2006 को प्राप्त हुआ था।

[सं. एल-40012/195/1994-आई आर(डी यू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 18th May, 2006

S.O. 2269.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGITA-1044/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 18-5-2006.

[No. L-40012/195/1994-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT AHMEDABAD**

PRESENT : Shri B. I. KAZI (B.Sc., L.L.M.),
Presiding Officer

**Industrial Disputes (Reference C.G.I.T.A.)
No. 1044/2004.**

Old (I.T.C.) No. 14/1997

1. The Distt. Telecom Manager,
Jasni Building,
Nr. Girnar Cinema,
Rajkot-360 001.

2. The Asst. Divisional Engineer,
Kasutarba Road,
Telephone Exchange,
Distt. Rajkot.First Party

V/s.

Sri. Dipak Nanji Saraiya,
VC, Plot Near Rly. Station,
Dheraji Distt. Rajkot.Second Party

APPEARANCE:

First Party : Shri Anil S. Parikh
Second Party : (Absent).

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by order No. L-40012/195/94-IR (DU) dated 26-7-1996 to this Tribunal for adjudication the terms of reference is as under :—

SCHEDULE

“Whether the action of the management of Distt. Telecom Manager, Rajkot/Asst. Divisional Engineer, Rajkot in terminating the services of Shri Dipak Nanji Saraiya, Dheraji is legal and justified? If not, to what relief the workman is entitled to?”

2. The Second Party was issued a notice to file the statement of claim by this Tribunal on 26-9-1996. The date to file the statement of claim was 17-8-1996. The appropriate Government has also directed the Second Party who has raised the dispute to file a statement of claim with relevant document and list of reliance and witness to the Tribunal within 15 days of the receipt of the order.

3. However, the proper opportunity was given by this Tribunal to file a statement of claim to the Second Party. The Second Party failed to submit a statement of claim after 7 years and 5 months from the date of reference. Thus this Tribunal has reason to believe that the Second Party is not interested in the dispute. Thus the concerned workman failed to prove this case.

Looking to the above observations I hereby pass the following order :

ORDER

The action of the management of Distt. Telecom Manager, Rajkot/Asst. Divisional Engineer, Rajkot in terminating the services of Shri Dipak Nanji Saraiya, Dheraji is legal and just. The workman is not entitled to get any relief. The reference is hereby rejected for want of prosecution. No order as to cost.

B. I. KAZI, Presiding Officer

Dated : 13-9-2005
Ahmedabad

नई दिल्ली, 18 मई, 2006

का. आ. 2270.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू.डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, नई दिल्ली के पंचाट (संदर्भ संख्या 115/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-5-2006 को प्राप्त हुआ था।

[सं. एल-42012/101/1993-आई आर(डी यू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 18th May, 2006

S.O. 2270.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947); the Central Government hereby publishes the award (Ref. No 115/94) of the Central Government Industrial Tribunal-cum-Labour Court No. I, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on 18-5-2006.

[No. L-42012/I01/1993-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI S. S. BAL : PRESIDING OFFICER :
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO. 1, NEW DELHI**

I.D. NO. 115/1994

In the Matter of dispute between :

Shri Bali Ram
S/o Late Shri Lili Ram,
C/o Delhi Labour Union,
Aggarwal Bhawan,
G.T. Road, Tis Hazari,
Delhi-110054. Workman

Versus

The Engineer in Chief,
CPWD, Ministry of Works and Housing,
Govt. of India,
Nirman Bhawan,
New Delhi.

APPEARANCES :

Shri Aditya Aggarwal A/R the workman.
None for management.

AWARD

The Central Government in the Ministry of Labour has referred the following industrial dispute to this Tribunal for adjudication :—

SCHEDULE

“Whether the action of the management of Deputy Director of Horticulture, CPWD, New Delhi in not giving appointment to Shri Bali Ram as L.D.C. on Compassionate ground on the death of his deceased father Shri Lili Ram is proper, legal and justified? If not, to what relief the workman is entitled to?”

2. The case of the workman as called from record are that Shri Lili Ram son of Shri Faturi was in the employment of C.P.W.D. in Horticulture Department, South Division, Netaji Nagar, on the post of Mali. He met with an accident and died on 1-3-82 and his retiral benefits were paid to Shri Bali Ram. Shri Lili Ram left behind his family consisting of

two daughters namely Smt. Santa, 44 years and Smt. Kamla, 42 years, five sons namely Shobha Ram, 39 years, Sedhu Ram, 37 years, Bali Ram, 30 years. Ram Kumar, 26 years and Devender Kumar 25 years. Shri Bali Ram with the consent of other dependents of Lili Ram made an application for appointment on compassionate ground on 1-3-82 and on July 26, 1992 he was told that the request for the appointment on compassionate ground has been turned down by the management. It is further stated that the denial of appointment of Shri Bali Ram on compassionate ground is wholly illegal, bad, unjust and malafide for the reasons that the family of Lili Ram has been left in harness as none of the family member of the deceased workman is employed in the C.P.W.D. on compassionate ground, the family has no source of income/livelihood and Bali Ram is eligible for appointment on the post of L.D.C. or any other post in regular pay scale and allowances. He was also ready to accept the post of Peon till a proper post of L.D.C. may be available. It is further stated that the management has violated the service conditions for the appointment of a son or near relative on compassionate ground. The elder sons of Bali Ram is employed but his monthly wage is insufficient to satisfy the needs to his family entitled to be appointed on the post of L.D.C. with retrospective effect from 1-3-82, the date of death of the deceased workman with all other consequential benefits. In case the post is not available, a superannuary post of L.D.C. may be created by the management to absorb the workman Shri Bali Ram on the post of L.D.C. The cost of litigation as provided in Section 11(7) of the I.D. Act, 1947 may also be awarded to the workman.

3. The management filed written statement raising preliminary objection that Bali Ram is not workman/employee of the management as L.D.C. However, his father was an employee of this department on the post of Mali. Bali Ram had applied for his appointment on compassionate grounds. His case was rejected by the competent authority. Therefore, he cannot claim to be a workman of this department.

4. On merits it is stated that the action of the management in not giving appointment to Shri Bali Ram on compassionate ground is proper, legal and justified on the grounds that he has applied for compassionate appointment to the post of L.D.C. The widow of the deceased seems to be no more as there is no mention of her in the details of dependents. Two daughters of the deceased are married. Out of the remaining five sons, two are employed, married and living separately. Shri Bali Ram himself is 31 year old and has a family of his own consisting of five members. Terminal benefits to the tune of Rs. 19185

have been paid to the family besides family pension of Rs. 116/- PM. A man with a family of five members to support, cannot be expected to be unemployed and it cannot be expected of him to look after the family of the deceased government servant. It is further stated that acquittal of the workman in a criminal case was on the basis of a compromise as the offence was compoundable and as this is not an honourable acquittal on merits, this department does not consider it proper to appoint Shri Bali Ram on compassionate grounds. Even on consideration of merits, in view of the facts mentioned above, this is not a fit case for compassionate appointment. As Bali Ram is not in the service of CPWD and, therefore, he cannot be termed as Workman under the I.D. Act. A reply on the above lines was also sent by the Ministry of Urban Development to the Ministry of Labour vide Office memorandum No. 5/6/92-ECV/EW/2 dated 13-8-93. It is further stated that denial of appointment of Bali Ram on compassionate ground is proper, legal and justified. However, it is denied that the attitude of the department was non-cooperative or adamant. The application of Bali Ram was rejected on the grounds mentioned above which was proper, legal and justified. Hence it is prayed that no relief may be granted as the action of the management is proper, legal and justified.

5. Written statement was followed by rejoinder wherein controverted facts of the written statement were denied and those taken in the claim statement were reiterated to be correct.

6. After rejoinder management examined Shri Zile Singh MWI in support of their case and workman examined himself as WWI. The case was then adjourned for filing parties written arguments and parties filed written arguments.

7. I have heard oral arguments addressed by Shri Aditya Aggarwal A/R for the workman as none appeared for the management.

8. The only question which arises for consideration is whether the claimant Bali Ram is entitled to appointment on compassionate ground.

9. It is admitted fact that Lile Ram father of the claimant was employee of the respondent as Mali and died on 1-3-82 leaving behind two daughters and five sons including the claimant and his two sons were employed while daughters were married. His claim for compassionate appointment was rejected by the respondent *vide* order date 26-7-92 on the ground that the claimant was 31 years old and he has family of his own consisting of five members. Terminal benefits to the tune of 19185/- have been paid to the family besides the family pension of Rs. 150/- and a man with such a large family consisting of five members cannot be expected to be unemployed and that apart from this Bali Ram was involved in a criminal case and was being prosecuted in the court of Metropolitan Magistrate and was acquitted on 20-11-90 *vide* judgement which was pronounced on 20-11-90./which ended in acquittal on

compromise of the parties. The ground of rejection of appointment on compassionate ground was that applicant was paid terminal benefits to the sum of Rs. 19185 or Rs. 116 and that he has been paid pension is not tenable *vide* judgement dated See Umesh Kumar Vs. State of Haryana (1994)(3) JT(SC)525 : (1994 AIRSCW 2305) wherein it has been categorically held that “the compassionate appointment is to be given to enable the family to tide over the sudden crisis and to avoid the family falling into penury. We find that the impugned order passed by the learned Tribunal does not suffer from any error of jurisdiction.” The ground that Bali Ram was facing a criminal trial which ended in acquittal is also a no ground to disallow his claim as the details of judgement shows that it was a case involving offence of scuffle or using criminal force punishable under Section 323 IPC not causing much harm which is compoundable and more so it was not a case of moral turpitude. However, Shri Lile Ram died in the year 1982 and his request for compassionate appointment was rejected in 1990. He mentioned his age as 30 years in the statement of claim which appears to have been filed in November, 94. Hence he was 18 years of age on 11-11-82 when his father died and thereafter he got married and even three children were born. The claimant or any person is not entitled to appointment on compassionate ground as a matter of right and such an appointment is an exception to Article 16 of Constitution of India and is given to tide over the immediate financial crisis due to sudden death in the family and the sole earning member of the family. See Manipal Vs. Central Administrative Tribunal Chandigarh 2004 Lab I.C. 418. In the instant case two of the sons of the deceased were already in employment at the time of his death. Sisters of the claimant i.e. daughters of the deceased Lile Ram were also married. The claimant was major though 18 years of age and thereafter he got married and at the time of filing claim petition he was maintaining a family of five members consisting of he himself, his wife and three children. From this it cannot be said that some unexceptional pecuniary financial crisis was caused due to sudden death of Shri Lile Ram. Though the petitioner claimed that sons of the deceased were living separately but this alone does not entitle the workman to appointment compassionate ground. There is nothing on record that the order of rejection passed by the respondent management has been passed without taking into consideration the relevant facts and due application of mind and cannot be found fault with. The observation in the citation relied upon by the workman in case captioned as Smt. Harbans Kaur that compassionate appointment is intended to achieve Social Justice and is constitutionally valid is not in dispute but is of no help to the claimant. The said judgement is not applicable to the fact of the Present, case. Hence the claimant is not entitled to the relief of appointment on compassionate ground as claimed. Award is accordingly passed. File be consigned to record room.

Dated : 28-4-2006

S.S. BAL, Presiding Officer

नई दिल्ली, 23 मई, 2006

का. आ. 2271.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भैसर्स इण्डिया स्टोन सप्लाई कं. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय कोटा के पंचाट (संदर्भ संख्या 11/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-2006 को प्राप्त हुआ था।

[सं एल-29012/92/2001-आई आर(डी विविध)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 23rd May, 2006

S.O. 2271.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 11/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Kota as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. India Stone Supply Co. and their workman, which was received by the Central Government on 22-5-2006.

[No. L-29012/92/2001-IR (M)]

SURENDRA SINGH, Desk Officer

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा/राज.

पीठासीन अधिकारी-के. के. गुप्ता, आर.एच.जे.एस.
रैफ़ेन्स प्रकरण क्रमांक : ओ.न्या./केन्द्रीय-11/02

दिनांक स्थापित : 13-2-2002

प्रसंग: भारत सरकार, प्रम मंत्रालय, नई दिल्ली के आदेश संख्या एल. 29012/92/2001 आई आर (एम) दिनांक 24/1/01

रैफ़ेन्स अन्तर्गत धारा 10(1) औद्योगिक विवाद अधिनियम, 1947

मध्य

जीतमल यादव पुत्र श्री वासुराम यादव निवासी कोटा।

— प्रार्थी श्रमिक

एवं

प्रबन्ध : मै. इण्डिया स्टोन सप्लाई कम्पनी, कोटा/राज./

— अप्रार्थी नियोजक

उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि :— श्री आर.एस. शर्मा

अप्रार्थी नियोजक की ओर से प्रतिनिधि :— श्री रविन्द्र गुप्ता

अधिनिर्णय दिनांक : 5-4-06

(अधिनिर्णय)

भारत सरकार, प्रम मंत्रालय, नई दिल्ली के उक्त प्रमाणिक का दिनांक 24-1-01 के जरिये निम्न रेफ़ेन्स, औद्योगिक विवाद अधिनियम, 1947 जो तदुपरान्त “अधिनियम” से सम्बोधित किया जायेगा की धारा 10(1) के अन्तर्गत या न्यायाधिकरण को अधिनिर्णय सम्प्रषित किया गया हैः—

“क्या प्रबन्धन भैसर्स इण्डिया स्टोन सप्लाई कंपनी, कोटा (राज) द्वारा कर्मकार श्री जीतमल यादव पुत्र श्री वासुराम यादव निवासी कोटा राज. की सेवाएं दि. 1-1-96 से समाप्त करने की कार्यवाही वैद्य एवं उचित है? यदि मर्दों से संबोधित कर्मकार किस अनुतोष का हकदार है? इस विवाद में किसी न्यायालय का स्थैग्न आदेश नहीं है?

2. रेफ़ेन्स, न्यायाधिकरण है प्राप्त होने पर पंजीकृत उपरान्त पक्षकारों की सूचना विधिवत रूप से जारी की गयी।

3. प्रार्थी श्रमिक जीतमल यादव की ओर से कलेम स्टैटमेंट प्रस्तुत कर सकते हैं यह अधिकथित किया गया है कि उसकी नियुक्ति अप्रार्थी मै. इण्डिया स्टोन सप्लाई कंपनी, कोटा (जिसे तदुपरान्त “अप्रार्थी नियोजक” से सम्बोधित किया जायेगा (धारा सन् 1993 में अप्रैल माह में की गयी थी तब से 31-12-95 तक निरन्तर कार्य करते हुए प्रत्येक कलेण्डर वर्ष में 240 दिन से अधिक समय तक कार्य कर लिया था, तथापि दि. 31-12-95 के कार्यापरान्त बिना कोई कारण बताये व बिना जारी अधिनियम की धाराओं का अलंधन है। अन्त ये प्रार्थना की गसयी जोकि उसे सेवासे पृथक किया जाना अनुचित एवं अवेजल जीवित डरते हुए पिछले समस्त वेतन लाभ, सेवा दी निरन्तरता व अन्य सभी लाभों सहित सेवायें पुनः लिये जाने का असुतोष प्रदान किया जाये।

4. अप्रार्थी नियोजक की ओर से उक्त काजवाव प्रस्तुत करते हुए यह प्रतिवद दिया गया है कि प्रार्थी ने 31-12-95 को हुई तथा कथित देयाभुक्ति के सम्बन्ध में उसमे पेश किया है, जबकि उसमें सर्वप्रथम अपना विवाद समझौता अधिकारी के समक्ष 25-9-2000 को प्रस्तुत किया था जो लगभग 5 वर्ष बाद उठाया है, इस विलम्ब का कोई कारण उचित नहीं दिया है, अतः अत्याधिक विलम्ब से विवाद उठाये जाने के कारण कलेय निरस्तनीय है। आगे अधिकथित किया गया है कि प्रार्थी व अप्रार्थी के मध्य कभी प्रार्थी/श्रमिक व नियोजक का सम्बन्ध नहीं रहा है, अतः 31-12-95 तक निरन्तर कार्य करने का प्रश्न ही उत्पन्न नहीं होता, ना 240 दिन तक कार्य करने का प्रश्न दी उत्पन्न होता। प्रार्थी का पूर्णतया कारैपमिइ है, अतः वर्ष किसी अनुतोष का अधिकारी नहीं है।

5. पत्रावली के अवलोकन से प्रकट होता है कि प्रार्थी श्रमिक कर ओर से अपने श्रमिक समर्थन में किसी ग्रकार की कोई साक्ष्य प्रस्तुत नहीं की गयी है। अपय स्वयं प्रार्थी प्रतिनिधि ने यह प्रकट दर दिशाएं कि वो कोई साक्ष्य प्रस्तुत नहीं करना चाहते हैं। अप्रार्थी प्रतिनिधि की ओर से भी, अभिलेख पर प्रार्थी की ओर से साक्ष्य रेकार्ट नहीं होगी इस के कारण कोई साक्ष्य प्रस्तुत नहीं करना प्रकट किया गया।

बहस प्रक्षकारों की सुनी गयी व पत्रावली का ध्यानपूर्वक अवलोकन किया गया। प्रार्थी को ओर से अपने क्लॉम स्टैमेन्ट की पुष्टि है किसी प्रकार को कोई साक्ष्य प्रस्तुत नहीं की गयी है और वह अपने मामले को साक्षित करने से पूर्णता असफल रहा है। निष्कर्षतः अप्रार्थी नियोजक द्वारा प्रार्थी श्रमिक को दि. 1-1-96 से की गयी सेवा समाप्ति अनुचित एवं अवैध नहीं है और वह अधिनियमान्तर्गत किसी प्रकार का कोई अनुतोष प्राप्त करने का अधिकारी नहीं है तथा सम्बंधित रेफ्रेन्स को उसी प्रकार अधिनिर्णत कर अन्तरित किया जाता है।

अधिनियम आज दिनांक 5-4-06 को खुले न्यायाधिकरण में सुनाया गया जो नियमानुसार समुचित सरकार की प्रकाशनार्थ भिजवाया जाये।

के.के.गुप्ता, न्यायाधीश

नई दिल्ली, 23 मई, 2006

का. आ. 2272.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट अथोरिटी आफ इण्डिया के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायालय-II, नई दिल्ली के पंचाट (संदर्भ संख्या 145/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-2006 को प्राप्त हुआ था।

[स. एल-11012/2/2003-आईआर(विविध)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 23rd May, 2006

S.O. 2272.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 145/2003) of the Central Government Industrial Tribunal-cum-Labour Court-II, New Delhi, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workmen, which was received by the Central Government on 22-5-2006.

[No. L-11012/2/2003-IR (M)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

PRESIDING OFFICER: R. N. RAL

I.D. No.145/2003

IN THE MATTER OF:

Shri Tajinder Singh & others,
(As per list attached)

C/o. Anil Kumar Tripathi (Advocate), Authorized Representative, C-165-A, C.L. Joseph Block,
Tis Hazari Courts,
Delhi - 110 054.

Versus

The Chairman,
Airport Authority of India (IAI), Rangpuri, Palam
Airport, New Delhi -110037.

AWARD

The Ministry of Labour by its letter No.L-11012/2/2003 IR (M) Central Government Dt. 03.11.2003 has referred the following point for adjudication.

The point runs as hereunder :

“Whether the action of the management of AAI, Cargo Division, IGI Airport, New Delhi in not regularizing the 26 workmen as per list attached and subsequently terminating them w.e.f. 01.09.2002 is justified? If not, to what relief the concerned workmen are entitled.”

The workman applicant has filed claim statement. In the claim statement it has been stated that the workmen were employed with the management at the post of Computer Operator, Data Entry Operator and other related Computer Operation Jobs in Data Entry Operations in Import and Export w.e.f. 1991 and thereafter as per the list enclosed herewith.

That the workmen always performed their duties with hard labour and due diligence and there was no complaint in the duties of the workmen nor the workmen were ever charge sheeted nor there was any enmity of the workmen with the officers of the management.

That inspite of the dedicated, devoted and continuous services with the management, the management was not providing the various legal facilities to the workmen like their regularization on a permanent post, appointment letter, salary and attendance register, bonus, annual increments and so on, which were demanded verbally from time to time, by the workmen but the management did not heed the same.

That the workmen were continuously performing the job of the management but the management under the policy of victimization and unfair labour practice continued to take the job from the workmen, continuously through some contractors. The contractors were being changed by the management but the workmen were the same. Previously all the workmen were put under the contractorship of M/s. Shahid Consultancy, also M/s. A Z Datamall and then Micro direct and thereafter again M/s. A Z Datamall contractor was appointed for the workmen while infact the workmen regularly and without a single break continued the work of management without any fault, but since no legal facilities were being provided to the workmen therefore the workmen raised their genuine demands, various times but of no avail.

That on 22-08-2002 a demand notice was duly sent to the management by the workmen, requesting that their

old devoted services may not be dispensed with, but the management did not pay any heed to the said notice and illegally terminated the services of the workmen w.e.f. 01-09-2002 without any prior information or notice and without following the due procedure of law. The management had also not complied with the requisition of section 25 (f) of the ID Act and under the colourful exercise of powers, had illegally terminated the services of the workmen.

That as per the settled law of the land, all the workmen had acquired the legal right of becoming a regular employee of the management as each workman had completed continuous 240 days services with the management and not only this, some of the workmen had continuously completed their services for 9-10 years with the management and the said right cannot be taken away by the management in the guise of its policy. Instead of regularizing the services of the workmen, who were doing the job of a regular nature, appointed other less experienced employees from outside at a higher rate. It is not only illegal, ultra vires and unconstitutional but also against the Government Policy and interest. The workmen were only being paid salary of Rs.3500 approximately and after terminating them from their old services, the management had appointed less experienced persons on their place at a monthly salary of Rs.12000 to 15000 approximately, thus on one hand the management has adopted illegal and anti labour policy against the workmen and on the other hand the management has also caused a severe damage to the Government of India and this matter also requires a deep rooted CBI inquiry against the management.

That it is submitted that there was a direct relationship of Employer and Employee between the management and the workmen and the contractors were only appointed as a mediator only to take away the legal right of the workmen of becoming a regular employee of the management as the management is the principal employer.

That as per the letter/order dated 06-08-2002 issued by Shri Man Mohan Singh, Cargo Manager showing the requirement of 35 employees in the Data Feeding Operation in export and import, where the present workmen were employed but even to this, the management is illegally adamant on its illegal designs.

That before the Conciliation Officer this point was raised by the workmen that while the post of Data Entry and Computer Operators & Computer Supervisors is vacant in the said department therefore why the workman should not be considered or regularised on the said vacant posts but the management had illegally failed to settle the dispute before the Conciliation Officer and were adamant on its illegal designs.

That from the documents of the management the applicant/workmen have got a very good *prima facie* case

in their favour that they are being deprived of their legal rights while the posts exists, job exists and the work exists as the job which the applicant workmen were performing is of regular nature and not intermittent as the Management is silent on this point.

That the non-regularization of the workmen and subsequently terminating them w.e.f. 01-09-2002 is not only illegal, unjustified, unfair, un-constitutional but also against all the canons of law and the management's own interest and policies and all the workmen are entitled to be reinstated and regularized.

The management has filed reply to the claim statement. In the reply it is stated that Airports Authority of India is a statutory body established under the Airport Authority of India Act, 1994 for the purposes of maintenance and development of Airports. It is submitted that during the discharge of its ancillary activities the respondent management engaged the services of various contractors for providing manpower regarding certain works to be performed depending upon the exigencies of work.

That accordingly a tender was floated on 29-06-1996 by Airport Authority of India whereby bids were invited for the job of computer data feeding operations and other related services in line/batch processing at Cargo Terminal and its ancillary units at IGI Airport, New Delhi. It is a matter of record that the said contract was awarded to M/s. A Z Datamall Pvt. Limited (hereinafter the contractor) vide agreement dated 02-12-1996. Under the said contract, it was agreed between the parties that the contractor shall provide data feeding work related to Cargo operations and for the aforesaid purpose it was agreed that the contractor shall deploy manpower in the premises of the respondent authority. It was stipulated under the contract that both the data entry operators and the supervisors shall be provided by the contractor so as to execute the work related to data entry operations. Under the aforesaid contract it was the responsibility of the contractor to engage suitable/ competent operators and supervisors. Under the terms and conditions of the agreement a duty was cast upon the contractor to submit monthly bills/expenditure incurred by him in meeting the wage bills/other expenses along with the proof of the same.

Further the contractor was required to take insurance cover over the employees, who were employed by him for the purpose of execution of the agreement. It was one of the conditions of the agreement "that the contractor or his authorized representative shall report at the time of commencement of each shift and ceasing of the work of the day in any area of the Airport Authority of India". It is a matter of record that the agreement that the contract was awarded to the contractor initially for a period of two years and a provision was made therein for extension of the same. The said agreement remained in force till 30-08-2002.

That in order to feed the records pertaining to the Cargo and which were kept manually a contract was awarded to the contractor i.e. M/s. A Z Datamall Pvt. Ltd. The said contractor was required to complete the feeding operations with the help of its employees. The said contractor employed 38 workmen in data feeding operations as well as data feeding supervisors. It is pertinent to mention herein that the management of A Z Datamall Pvt. Ltd. with the help of its staff and supervisors were directly looking after computer data feeding operations and M/s. Airport Authority of India had no control/supervision over the said persons or operations as carried on by the said persons who were the employees of M/s. A Z Datamall.

That keeping in tune with the advancement of the global technological process, electronic data inter change system (EDI) was brought in as new method of information technology. The whole object of the introduction of the aforesaid technology was to scrap manual transactions. It was decided that instead of manual operations with the aid of contract labour, computers shall be inducted so as to reduce the manual operation of data feeding. With the advancement of technology, it became possible to feed the data on the computer system directly by the airlines concerned while issuing the Airway bill from the station of origin thereby inter connecting the station of origin with the station of destination. With the change scenario it became possible to harness the in-house resources with the help of training, which is being imparted by the Airport Authority of India presently. In view of the aforesaid computer date operation with the help of human intervention has been rendered redundant.

It is submitted that the reference itself is bad in law and is liable to be rejected, as the claimants were never in the employment of Airports Authority of India, hence the issue of termination of the services of the workman/ claimant does not arise. That the appropriate Government has made the present reference in a mechanical manner and there has been no application of mind before the reference has been made for adjudication before this Hon'ble Tribunal. Hence, it is clear that the present reference is bad and is liable to be rejected.

It is submitted that the present claim, as filed by the claimant is untenable, as no relationship as Employer and Employee existed between the claimant and the respondent, AAI. The claimant continue to be the employee of the contractor and thus if any claims are to be preferred, they have to be preferred only against the contractor, namely M/s. A Z Datamall Pvt. Ltd. It is respectfully submitted that the claimants have been appointed by the contractor, who was responsible for selecting the most suitable candidate. Further, it was only the responsibility of the contractor to supervise and to take disciplinary action in case of any breach/misconduct if any committed by its employees on the project of the answering respondent. It

was the responsibility of the contractor to organize and regulate its respective employees by way of preparing muster roll/attendance register. The contractor was responsible for the payment of remuneration to its respective employees. Further, uniform of the employees, insurance policy, provisions related to EPF, ESI payment and bonus are all the responsibility of the contractor under the contract. It is pertinent to mention that in view of the aforesaid, the contractor i.e. M/s. A Z Datamall Pvt. Ltd. who was the ultimate authority in so far the question of appointment, dismissal, new appointment, working of the employees were concerned.

It is submitted that the claimants herein were never employees of the management. It is submitted that the contract was entered into between the management of M/s. A Z Datamall Pvt. Ltd. and Airport Authority of India whereby M/s. A Z Datamall was to handle the computer operations pertaining to the feeding of the transactions of Airport Authority of India. It is a matter of record that the persons who were handling the data entry operations of Airport Authority of India were the employees of M/s. A Z Datamall who was awarded the contract vide agreement dated 02-12-1996. It is submitted that no relationship of Employer and Employee existed between the claimants and the respondent, AAI. The claimants continue to be the employees of the contractor.

It is a matter of record that the persons handling data entry operations Airport Authority of India were never on the pay roll of Airport Authority of India and thus question of charge sheeting them does not arise at the behest of the respondent authority. The claimants have been appointed by the contractor and were the employees of the contractor. Further it was the responsibility of the contractor to supervise and to take disciplinary action in case of any breach/misconduct, if any, committed by its employees/ claimants on the project of the answering respondent. It is reiterated at the cost of repetition that it was only the contractor who alone had the authority to initiate disciplinary action against the delinquent employees and not the answering respondent.

In the absence of any employer-employee relationship between the claimants and the management, question of providing any facilities to the claimants does not survive. The conditions of service, if any, with respect to the claimants were regulated by the agreement, if any, entered into by the respective claimants with the contractor with whom the claimants had the relationship of employer employee. The contractor alone was responsible for the payment of remuneration to its respective employees/ claimants. Further, the claim with respect to uniform of the employees/claimants, insurance policy and provisions related to EPF, ESI payment and bonus etc. were all the responsibility of the contractor and the answering respondent had no role to play.

The workmen applicants have filed rejoinder. In their rejoinder they have reiterated the averments of their claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the management that the workman had been continuously working under the different contractors. They were employed prior to the engagement of contractor. They worked under the control and supervision of the management. They performed their duties satisfactorily. There was no complaint against them. The management did not provide various legal facilities to the workman just as regularization at permanent post, appointment letter, salary, attendance, bonus and increment. The management took work from them without payment of minimum wages. The management resorted to the policy of victimization and unfair labour practice. The work was of continuous and permanent nature but it was taken through different contractors. The contract was sham. The workmen were the direct employees of the management. The management engaged them through contractor only to camouflage their status and to deprive them of the benefits of regularization and regular service. They have worked for more than 240 days in many years. In view of Steel Authority of India this Tribunal has jurisdiction to regularize the workmen. The contractors were only intermediaries.

It was further submitted that after termination of the services of the workmen 35 employees in the Data Feeding Operation in Export and Import were taken by the management but the management did not absorb or consider the case of the present workmen. Termination order dated 01-09-2002 is illegal, unjust, unfair, unconstitutional and it is against all canons of law and prejudicial to the management also.

It was submitted from the side of the management that the present 5 workmen who have filed affidavit are not the employees of the management. They have not worked for 240 days work in any year. The management engaged contractors for a temporary phase.

It was further submitted that keeping in tune that the advancement of global technology process, electronic data entry changed system was brought in as new method of information technology. So it was decided that instead of manual operations with the aid of contract labour computer shall be inducted so as to reduce the manual operation of data feeding. It became impossible to feed the data on the computer system directly by the Airlines concerned while issuing the airway bill from the station of origin to the station of destination. In the changed scenario an advertisement was floated and applications were invited

and after written test and interview suitable candidates were selected and the contractors were removed.

It was further submitted that the workmen have not proved that they have worked for 240 days work in any year. The initial burden was on them to prove that fact but they have not filed any document to establish their case.

It was further submitted that there was no employer-employee relationship between the claimants and the management. There was no question of extending the facilities of regular employees to the workmen. Their service condition were governed by the contract agreement entered into between the contractor and the management.

It was further submitted that if it is assumed that the workmen worked through contractor, there was no control of management. Payment to them was made by the contractor. The contractor has appointed supervisors to supervise the work of his own workmen. There was no supervision from the side of the management.

It was submitted from the side of the management that the claimants are bound by their claim and they have to prove invariably the case of their claim.

It was further submitted that Shri Tajender Singh has filed WW1/5 the statement of deposit of EPF. He has been mentioned as supervisor. He was drawing more than Rs. 1600/- as per his own admission. A workman discharging the duties of supervisor and getting more than Rs. 1600/- salary is not a workman as per the definition of workman in ID Act. Shri Tajender Singh is supervisor. He was supervising the work of other workmen so he was not a workman and the dispute raised by him is not an industrial dispute. According to the document filed by him he has worked for 2 years. Exhibit WW1/5 is not even photocopy of any document. There is seal of the management but this document contains no signature of any Officer, whereas it bears original seal of the management. So it becomes quite clear that these documents have been manipulated.

It was further submitted that the workman Shri Kapil Dev Bhalla has also filed Exhibit WW2/5. He has been also designated as supervisor and he was drawing more than Rs. 1600/- salary so he is not also a workman and dispute raised by him is not an industrial dispute.

It was submitted that the workman Shri Mohan Singh has filed only the Identity Card/Pass, which was valid from 03.03.1999 to 02.06.1999. He has not filed any other document to prove that he has worked for more than 240 days. The other workmen have not filed any document.

It was further submitted that in claim statement all the workmen have stated that they worked under the management from 1991. In affidavit Shri Tajender Singh has deposed that he worked from 1994. In rejoinder he has stated that he has been working since 1993 so different years have been given in claim, rejoinder and affidavit. He

has not disclosed as to from what year he was engaged by the management.

It was further submitted that Shri Kapil Dev has stated in the claim that he worked from 1991. In his affidavit he has stated that he worked from March, 1993 but in his cross-examination he has admitted that he was engaged w.e.f. 1995. Shri Mohan Singh has stated in his claim statement that he worked from 1991. In his affidavit he has deposed that he was working from 1993. In his cross-examination he has admitted that he was working from 1999. The workman Shri Sisupal Singh Rawat has given the same affidavit and the same claim. He has not filed any document. The workman Shri Dinesh Kumar has not filed any document. In his affidavit he has deposed that he was working from March 1993 but in his cross-examination he has admitted that he was working from March 1996.

It was further submitted that Shri Tajender Singh has not disclosed the year of his engagement and he was a supervisor as per his own document so he cannot be treated as a workman. Shri Kapil Dev also has been designated as supervisor and he has not disclosed as to from what year he was engaged. The other 3 workmen have not filed any document regarding their engagement.

It is admitted case of the management that contract labour was engaged from 1996 and fresh regular appointment was made in view of the changed scenario in technology and none to these workmen have appeared in the written test. They lacked the requisite qualification so they did not fill up the form.

It is true that 35 workmen have been selected by the management and they have been given Grade according to their qualification. They have been engaged on Rs. 12000—Rs. 15000 whereas these workmen were paid Rs. 3,000 by the contractor. The monthly salary of regular workman appointed through regular process was Rs. 12000—Rs. 15000. The present workmen do not have that qualification so they did not apply for the post and did not undergo the regular process of selection.

It is admitted that contractor's workmen were engaged from 1996. It was the duty of the workmen to prove that they have worked from 1996. Two workmen have filed document of two years of their services but they were supervisors. The other three workmen have filed only affidavit. They have not filed any other document. So the workmen have not proved that they worked under the contractor from 1991 or 1993 or even 1996. It was the duty of the workmen to prove that they worked through the contractor for the period of entire contract. They have stated in their affidavit that they worked all along with all the contractors but they have not filed any documents in support of their case. It is of course true that two workmen Shri Tajender Singh and Shri Kapil Dev have worked for two years through contractor but they were appointed as supervisor.

It transpires from perusal of the record that the management engaged contractor's workmen but the supervision was with the contractor and the contractors have appointed supervisors. So the workmen were not under the supervision or control of the management during their period of engagement. The workmen have miserably failed to prove their case.

The reference is replied thus :—

The action of the management of AAI, Cargo Division, IGI Airport, New Delhi in not regularizing the 26 workmen as per list attached and subsequently terminating them w.e.f. 1-9-2002 is legal and justified. The workmen applicants are not entitled to get any relief as prayed for.

Award is given accordingly.

Date : 15-5-2006.

R.N. RAI, Presiding Officer

नई दिल्ली, 23 मई, 2006

का. आ. 2273.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स आनन्द इन्टरप्राइजिज के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 58/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-2006 को प्राप्त हुआ था।

[सं. एल-29012/110/2000-आई आर(विविध)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 23rd May, 2006

S.O. 2273.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 58/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Anand Enterprises and their workmen, which was received by the Central Government on 22-5-2006.

[No. L-29012/110/2000-IR (M)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

NO. CGIT/LC/R/58/2001

Presiding Officer: Shri C.M. Singh

Shri Ram Kumar Shrivastav,
Near Firantha Contractor and
Jyoti Kirana Stores, Gayanagar,
Distt. Durg (MP)
Durg (Chhattisgarh). Workman
Versus

M/s. Anand Enterprises,
Prop. Shri K.C. Bafna, SM-28,
Padmanabhpur, Distt. Durg
(Chhattisgarh). Management

A WARD

Passed on 25th day of April, 2006

1. The Government of India, Ministry of Labour vide its Notification No. L-29012/110/2000/IR(M) dated 14-3-2001 has referred the following dispute for adjudication by this tribunal :—

“Whether Shri Ram Kumar Srivastav is a “workman” under Section 2(S) of the Industrial Disputes Act, 1947? If yes, whether his alleged termination of service by the management of M/s. Anand Enterprises is legal and justified? If not, to what relief the workman is entitled?”

2. After the reference order was received, it was duly registered on 10-4-01 and notices were issued to the parties to file their respective statements of claim. In response to notices, the parties filed their respective statements of claim and 19-4-06 the date was fixed for filing rejoinder by the workman. On this date i.e. on 19-4-06, an application was jointly moved by the parties intimating this tribunal that the industrial dispute has been compromised between the parties and it has been prayed by the said application that no dispute award be passed in this reference. This application was duly supported by affidavit of Shri K.C. Bafna, the proprietor of M/s. Anand Enterprises for the management and affidavit of workman Shri Raj Kumar Srivastav. The said application has been duly verified before me. It has been stated on oath in the aforesaid two affidavits that the dispute has been amicably settled between the parties. In view of the above, the reference was closed for award.

3. The facts discussed above clearly reveal that the industrial dispute has been amicably settled between the parties and now no industrial dispute is left between them. Therefore it shall be just and proper to pass no dispute award in this reference. Consequently no dispute award is passed without any order as to costs.

4. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C.M. SINGH, Presiding Officer

नई दिल्ली, 23 मई, 2006

का. आ. 2274.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बेलाडिला आयतन और प्रोजेक्ट के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ

संख्या 24/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-2006 को प्राप्त हुआ था।

[सं. एल-26011/6/94-आईआर(विविध)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 23rd May, 2006

S.O. 2274.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/95) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bailadila Iron Ore Project and their workmen, which was received by the Central Government on 22-5-2006.

[No. L-26011/6/94-IR (M)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/24/95

Presiding Officer : Shri C.M. Singh

The Secretary,
Bastar Khadan Mazdoor Sangh (HMS),
2/B, New Colony,
Kirandul,
Distt. Bastar (MP)-494556

Workmen/Union

Versus

Bailadila Iron Ore Project,
Deposit No. 14, Kirandul,
Distt. Bastar (MP)-494556

Management

A WARD

Passed on this 27th day of April, 2006

1. The Government of India, Ministry of Labour vide its Notification No. L-26011/6/94-IR(Misc.) dated 18-1-95 has referred the following dispute for adjudication by this tribunal :

“Whether the Bastar Khadan Mazdoor Sangh, Kirandul, Distt. Bastar (MP) is justified in demanding deletion of clause ‘b’ of the N.M.D.C Head Office Circular No. 2(53)/88-IR dated 11-2-93 regarding grant of special casual leave? If so, to what relief the workmen are entitled to?”

2. The case of the applicant/Union Bastar Khadan Mazdoor Sangh (HMS) Kirandul, Distt. Bastar in brief is as follows. The management of Bailadila Iron Ore Project, Dep. No. 14, Kirandul, Distt. Bastar has failed to frame

rules or regulations in terms of award dated 17-3-92 given by CGIT Cum Labour Court, Jabalpur issuing direction to BIOP to frame rules or regulations for grant of special Casual Leave to the workers for attending the meetings. Shri M.P. Pandey, employee of BIOP, Dep. No. 14, Kirandul had been deprived of his wages etc. for the period from 11-7-92 to 17-7-92, 18-9-93 to 24-9-93 15-3-92 to 17-3-92 6-7-92 to 7-7-92 and 28-9-92 he spent in attending the meetings of the Central Advisory Committee on IO, MO and CO Mines Labour Welfare Fund and RAC of WEC, Bhilai, due to non framing of rules or regulations by the management of BIOP, Dep. No. 14, Kirandul in compliance of award dated 17-3-92. The management of NMDC Limited framed certain rules vide NMDC Head Office Circular No. 2(53)/88-IR dated 11-2-93 in respect of grant of special casual leave to workers of NMDC Ltd. for taking part in meetings etc. Para (b) of the above circular is reproduced below:

"The employees are official members of the committee, duly constituted, with reference to statutory provisions and whose nomination in such committees was in consultation with the management of NMDC."

3. The above clause disqualifies any worker nominated to any of the Advisory Committee by the Central Trade Union Organisations as no Central Trade Union Organisation nominates its representatives in consultation with the management. Under the existing labour laws and instructions of the Government of India, there are no provisions authorising the management to nominate the workers representatives. Only Central Trade Union Organisations are authorised to nominate workers representatives at the request of the Government of India/ Agency. The Central Trade Union Organisations need not consult anyone while nominating their representatives to the Committees and it is accepted by the Government of India/ Agency. The NMDC Limited management by rule (b) mentioned above questions the action of the Government of India/ Agency in constituting the Committee with the members nominated by the Central Trade Union Organisations. This is illegal, unlawful and against the provisions of the Labour laws and instructions issued by the Government of India from time to time. Earlier Shri M.P. Pandey, employee of the Project was member of IO.M.I.W.F. Advisory Committee for M.P. as the Central Trade Union Organisation nominee (not in consultation with the management) and he was granted Special Casual Leave vide W/M dated 11-5-1977 and letter dated 13-5-77 for attending the meetings of the said committee. It is thus now clear that the management had gone back on its earlier instructions. That as per Government of India, Ministry of Finance, New Delhi, employees of Central Public Sector appointed to the Advisory Committee are not treated as non-officials vide endorsement dated 21-12-92. Consequently they are to be treated as officials for all purposes. That there is a case of an employee of Central

Public Sector viz. Kudremukh Iron Ore Company Limited nominated to such Advisory Committees being given all facilities vide letter dated 30-12-92 of the above company. In view of the above, it is clear that framing of rules incorporating conditions specified in para/clause 'b' of the circular dated 11-2-93 for grant of special casual leave by the management of NMDC Limited for attending the meetings was done to deprive the workers of their legitimate rights under law. Due to clause (b) of circular No. 2(53)/88-IR dated 11-2-93, Shri M. P. Pandey had been deprived of his wages etc. for having attended the meetings of the committees under prior intimation to the management. It has been prayed that directions be issued to the management of BIOP, Deposit No.14 to delete the relevant clause 'b' & order for payment of wages etc. denied and cost be awarded.

4. The management contested the reference and filed their Written Statement. Their case in brief is as follows. The demand made by the Union for deleting clause 'b' of circular dated 11-2-93 issued by the management on the ground that it is fully unjustified. The Union is making unreasonable demand and therefore the same cannot be accepted. The management submits that in the light of observation made by the CGIT in case No. Ref. 268/89 in its Award dated 17-3-92, the management had taken certain policy decision and the circular dated 11-2-93 has been issued as a result of the observation made by the CGIT. This cannot be termed as illegal or unjustified and it cannot be the subject matter for adjudication under any provisions of the ID Act. The provisions for grant of special casual leave to employees for attending meetings of Union etc. was found to be misused and when the matter was referred to CGIT in a particular case, an award was passed on 17-3-92 in which the Honourable Tribunal observed that the Government/Company should take action for framing rules with regard to grant of special Casual Leave to the employees for taking part in the meetings etc. In other words, the tribunal has specifically mentioned in its award that only after framing such rules and regulations, the special leave could be considered. In the light of the observations made by the Honourable Tribunal, the management of NMDC framed rules for the grant of such Special Casual Leave. Clause 'b' of these rules provides that an employee will be entitle to special casual leave only if he is an official member of the committee and his nomination to the committee is made in consultation with the management of NMDC. This is a reasonable classification and there is no reason for holding the same to be unjustified. The NMDC Ltd. is a body corporate, having its own legal entity under the articles of association, Memorandum of Association etc. The Corporation frames its rules and regulations keeping in view the necessity for running its affairs. The circular under consideration has been issued keeping in view the observation made by the Honourable CGIT as also the various relevant aspects

connected with the business of the corporation and other related issues relevant to it and its employees. The Corporation has inherent power to frame rules and regulations suitable to its requirements. It has been pleaded that the reference is bad in law and in the alternative to hold that the action of the management is fully justified and the Union is not entitled to any relief what-so-ever.

5. The workmen/Union did not adduce any oral evidence in support of their case. The management also did not adduce any oral evidence for defending the reference case.

6. The workmen/Union has filed certain documents on record which shall be discussed in the body of this award at appropriate places.

7. In this reference, an application bearing No. 18 was moved on behalf of Union wherein it is mentioned that the Union has not to adduce any oral evidence. It is also mentioned therein that the documents filed along with statement of claim be treated as evidence.

8. I could not have an opportunity of hearing the Union/workman as on the date fixed for argument no body was present for workmen/Union. Shri A.K. Shashi, Advocate the learned counsel for the management submitted on the said date that he has not to advance any argument.

9. I have very carefully gone through the pleadings of the parties and the entire evidence on record.

10. It comes out from the pleadings of the parties that the Union made a demand for deleting clause 'b' of circular dated 11-2-93 issued by the management on the ground that it is fully unjustified. It is very clear from the award (Ex. W-I) dated 17-3-92 passed by CGIT, Jabalpur, (MP) in LC/R/268/1989 that the tribunal observed as follows :

"In the above facts and circumstances, the workman is granted special Casual Leave for the aforesaid period. However, the Government concerned should take appropriate action to frame rules or regulations in this record so that such problems do not arise in future. With these observations, the reference is answered as under."

It appears from the record that for fulfillment of the above observation of the tribunal, the management issued circular No. 2(53)/88-IR dated 11-2-1993 wherein the clause 'b' is as follows:

" 'b' the employees are official members of the committee, duly constituted with reference to statutory provisions and whose nomination in such committee was in consultation with the management of NMDC."

It comes out from the pleadings that the demand of the Union is to delete the above clause from the circular. It is averred in the pleadings of the Union that under existing labour laws and instructions of the Government of India, there are no provisions authorising the management to nominate the workers representatives. Only the Central Trade Union Organisations are authorised to nominate workers representatives at the request of the Government of India/Agency. The Central Trade Union Organisation need not consult anyone while nominating their representatives to the Committee and it is accepted by the Government of India/Agency. The NMDC Ltd. management by rule 'b' mentioned above questions the action of the Government of India/Agency in constituting the Committee with the members nominated by Central Trade Union Organisations. This is illegal, unlawful and against the provisions of labour laws and instructions issued by the Government of India from time to time. Against the above pleadings of the Union that the aforesaid clause of the circular cannot be termed as legal or justified, it has been pleaded by the management that Clause (b) of these rules provides that an employee will be entitled to special Casual Leave only if he is an official member of the Committee and his nomination to the Committee is made in consultation with the management of NMDC. This is a reasonable classification and there are no reason for holding the same to be unjustified. There is no evidence on record to show that clause 'b' of the above circular is against the existing labour laws and instructions issued by the Government of India; meaning thereby there is no evidence to indicate that the provisions of clause 'b' of the circular are illegal, unlawful and against the provisions of labour laws and instructions issued by the Government of India from time to time.

11. In view of the above finding, it is hereby held that the Bastar Khadan Mazdoor Sangh, Kirandul, Distt. Bastar, MP is not justified in demanding the deletion of clause 'b' of the NMDC Head Office Circular No. 2(53)/88-IR dated 11-2-93 and therefore the workmen are not entitled to any relief. But considering the facts and circumstances of the case, it is also hereby held that the parties shall bear their own cost of this reference. The reference is, therefore, answered as follows :

The Bastar Khadan Mazdoor Sangh, Kirandul, Distt. Bastar (MP) is not justified in demanding deletion of clause 'b' of NMDC Head Office Circular No. 2(53)/88-IR dated 11-2-93 regarding grant of special casual leave and the workmen are consequently not entitled to any relief. The parties shall bear their own cost of this reference.

12. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 23 मई, 2006

का. अ. 2275.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कुद्रेमुख आयरन और कम्पनी लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रथम न्यायालय बंगलौर के पंचाट (संदर्भ संख्या 18/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-06 को प्राप्त हुआ था।

[सं. एल-26012/15/90-आईआर(विविध)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 23rd May, 2006

S.O. 2275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/91) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kudremukh Iron Ore Company Limited and their workmen, which was received by the Central Government on 22-5-2006.

[No. L-26012/15/90-IR (Misc)]

SURENDRA SINGH, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BANGALORE

Dated : 28th April, 2006
PRESENT : Shri A. R. Siddiqui, Presiding Officer
C. R. No. 18/1991

I Party II Party

Shri Nazeer Ahmed,
C/o The Joint Secretary,
City Textile Workers Union,
No. 86, Sudha Building,
Opp. Kino Theatre,
Seshadripuram,
BANGALORE - 560 020.

The Personnel Manager,
Kudremukh Iron Ore
Company Limited,
Sarjapur Road,
Koramangala,
BANGALORE - 560 034.

APPEARANCES:

I Party : Shri C N Krishna Reddy
Advocate

II Party : Smt. K Subha Ananthi
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the section 10 of the Industrial Disputes Act, 1947

has referred this dispute vide Order No. L-26012/15/90 IR(Misc.) dated 04-04-1991 for adjudication on the following schedule:

SCHEDULE

"Whether the management of Kudremukh Iron Ore Co. Ltd. is justified in discharging the services of Shri Nazeer Ahmed, with effect from 20-10-1986? If not, to what relief the workman is entitled?"

2. The 1st Party workman by his claim statement while challenging the punishment of dismissal passed against him, also challenged the Enquiry Proceedings as well as the enquiry findings holding him guilty of charges of misconduct of unauthorized absence as illegal; arbitrary and against principles of natural justice. His case is that he fell ill and applied for leave on 10-07-1986 for about 10 days but unfortunately again on 21-07-1986 he fell ill seriously and sent a Medical Certificate subsequent to his undergoing Kidney Operation at Manipal Hospital. The Management instead of granting him leave called upon him to appear before the Chief Medical Officer of the Management to find out whether he really suffered from any illness. He being virtually bed ridden and advised by Doctors for complete rest, could not appear before the Medical Officer. Then the management started Enquiry Proceedings but he could not attend and participate the Enquiry Proceedings again for the reason that he was seriously ill and was not even in a position to move or walk a distance of about 50 feet much less to come over to Kudremukh to attend the enquiry. The Enquiry Officer without giving him proper opportunity submitted his findings holding him guilty of the charges and the management based on those findings dismissed him from service illegally. He raised the dispute before the RLC(C) which resulted in the present reference, therefore, he requested this tribunal to pass an award setting aside the dismissal order and to reinstate him into the service with all consequential benefits.

3. The Management by its Counter Statement *inter alia* contended that the I party had applied for leave on 10-07-1986 from 11-07-1986 to 22-07-1986 which was not sanctioned due to exigency of work and the I party was accordingly intimated. However, he remained absent from duty from 11-07-1986 without any intimation to the Head Quarters. He did not report or turn up for work even after expiry of 12 days in spite of leave being refused. He was advised by letter dated 25-06-1986 and 04-07-1986 to report for duty but he sent telegram 20-07-1986 stating that he was not feeling well and certificate will follow, he was again advised telegraphically to report for duty failing which Disciplinary Action will be taken and then by letter dated 29-07-1986 he was again advised to report for duty and he was also advised to appear before the Deputy Chief Medical Officer at the company's hospital at Kudremukh for examination against the alleged illness. He did not respond to the letters of the management and continued to remain

absent resulting into the charge sheet dated 04.08.1986 being issued to him for his willful absence from duty without sufficient cause, as per company's standing orders. He did not give reply to the charge sheet nor attended the enquiry, once again on the ground that he was not keeping well. There after Enquiry Officer submitted his findings holding guilty of the charges and keeping in view gravity of the misconduct the Disciplinary Authority dismissed him from service w.e.f. 20-10-1986. Therefore, the management was justified in conducting the enquiry and in acting upon findings of the Enquiry Officer in dismissing the I party from the service.

4. Keeping in view the respective contentions of the parties, a preliminary issue

"Whether the second party proves that it has held the Domestic Enquiry against the I party in accordance with law and principles of natural justice?" was framed and parties were called upon to lead evidence.

5. During the course of trial on the said issue, the management examined Enquiry Officer as MW 1 and not marked as many as 18 documents at Ex. M-1 to Ex M-18 in his examination in chief. In his cross-examination management documents at Ex M-20 to Ex M-22 were marked. Other two witnesses examined for the Management are MW 2 and MW 3 and in statement of MW 3 Ex M-19 was marked (through other sight instead of being marked as Ex M-25). The I party examined him and in his cross-examination two documents at Ex M-23 and Ex M-24 were marked.

6. After, hearing the learned counsels for the respective parties and taking into consideration the overall evidence brought on record, my learned predecessor by his order dated 05-01-1999 recorded a finding to the effect that the Domestic Enquiry against the I party was in accordance with the principles of natural justice and therefore answered above said preliminary issue in the affirmative. It is there after learned counsel for the parties were heard on merits of the case and my learned predecessor by his award dated 22-03-1999 rejected the reference holding that the management was justified in discharging the services of the I party on the proved misconduct.

7. It is aggrieved by this award, the I party preferred Writ Petition No. 2705 of 2000 (L-TER) and challenged the said award and so also order dated 05-01-1999 under which the Domestic Enquiry held against the I party was held to be fair and proper. His Lordship of Hon'ble High Court vide order dated 02-08-2005 set aside the order dated 05-01-1999 and so also the award and remanded the matter back to this tribunal for fresh disposal in accordance with law after providing an opportunity to both the parties on the dispute.

8. After the receipt of the orders from the Hon'ble High Court notice were taken against both the parties. On 08-11-2005 Sh. K. S. A advocate filed power for the second

party and on 21-11-2005 Sh. C. N. K. R. filed power for the first party [written words illegible of the parties. On 22-03-2006, the management filed affidavit evidence of MW 4 by way of examination in chief and got marked Ex M-20, cross examination was deferred as counsel for the I party was called absent. On 23-03-2006 MW 4 was kept present but counsel for the I party being absent, case was adjourned to 29-03-2006 on which date affidavit evidence of MW 5 was filed and in his further examination in chief Ex M-21 was marked. MW 4 and MW 5 were present and their cross-examination was deferred. On 06-04-2006, both the witnesses were recalled. In further examination in chief of MW 4 document at Ex M-20 was marked by oversight, in further examination in chief of MW 5 documents at Ex. M-21 to Ex M-34 were marked without taking note of documents already marked at Ex M-1 to Ex M-24 supra. (Therefore, Ex M-20 to Ex M-34 are to be treated as Ex M-25 to Ex M-39 respectively). On the above said date i.e., 06-04-2006 there being no representation of the I party either by himself or through his counsel, it was taken that he has no cross-examination for MW 4 and MW 5 and they were discharged and case came to be posted for evidence of I party. Once again there was no representation on his behalf and therefore his evidence was taken closed posting the case for arguments. On 21-04-2006 counsel for the II party filed written arguments and since the I party and his counsel were not present, the matter came to be posted for award.

9. After remand on merits of the case as noted above the management produced two documents marking them in the depositions. MW 4 in his affidavit has just stated that he knows the I party working as a Time Keeper with the Management and he has maintained the Attendance Register to which he referred to at Ex M-20 during the course of his further examination in chief (He had already given his evidence on the point of the validity of the enquiry as MW 2).

10. MW 5 is the witness to speak to the various contentions taken by the management in their Counter Statement. The averments made by him in his affidavit on those contentions need not be repeated. However his further examination in chief with regard to the documents which is relevant for the purpose is as under:

"I know see a letter dated 10.07.1986 of the I party seeking leave, it is at Ex M-22. His telegram dated 21.07.1986 in continuation of the said letter is at Ex M-23. Our Office Telegram dated 23.07.1986 informing the I party that the leave sought for is not granted is at Ex M-24. He was once again by telegram dated 28.07.1986 was informed that he is absenting from duty unauthorisedly and was called upon to attend duty forthwith is at Ex M-25. A letter dated 29.07.1986 was also written to the I party by our office to report for duty latest by 04.08.1986, it is at Ex M-26. AD Slip for service of the said letter is at Ex M-26(a).

Charge Sheet dated 04.08.1986 was issued to the I party which is at ExM-27. His Medical Certificate dated 01-08-1986 is at Ex M-28. Medical Certificate 21-07-1986 is at Ex M-29. Management company by letter dated 07-08-1986 at Ex M-30 called upon the I party to subject himself for Medical Examination by company's doctor. The I party sent another medical certificate letter dated 28-08-1986 at Ex M-31. The letter of the I party dated 01-09-1986 is to the effect that he is planning to resign from the job is at Ex M-32. The letter dated 05-10-1986 as a last chance the management advised I party to undergo medical examination before Deputy Chief Medical Officer of the Management is at Ex M - 33. Thereafter enquiry was conducted and I party was discharged from the service , is at Ex M-34.

11. As noted above, learned counsel for the management had submitted his written arguments once again repeating the facts narrated in the Counter Statement. He also referred to the affidavit statement of MW 5 and referred to various decisions as to how the punishment of dismissal on the proved misconduct was justified.

12. In this case, it is not in dispute that the I party has remained absent till the date of his discharge on 20-10-1986. From the reading of the observations made by his lordship of Hon'ble High Court at para 8 of the aforesaid order and taking into consideration oral and documentary evidence brought on records, it becomes evident that in the month of February 1986, the petitioner had undergone Surgery relating to Kidney problem (My learned predecessor during the course of examination in chief of WW 1 made earlier before this tribunal while recording the statement that he was operated at Manipal Hospital, noted in bracket as under: (I Party shows the hind portion of the back and obviously he has undergone operation which is clear from the stitches). Subsequent to the charge sheet it can be found that the I party was taking treatment either inpatient or out patient at Meghana Hospital, Shimoga. It is also brought on record on behalf of the I party that he was advised complete bed rest by the Doctors from whom he took the treatment. Therefore, what appears from the records is that prior to 11-07-1986 and subsequent there to, I party was suffering from Kidney problem and Blood Pressure and was undergoing treatment, However, as could be revealed from the records. Medical Certificate's submitted by the I party were not accepted by the Management and the Management called upon the I party to appear before the Deputy Chief Medical Officer attached to the Management so as to find out his illness. From the statement of MW 5 in his affidavit and in his further examination in chief it is very much made clear that the leave application filed by the I party on 10-07-1986 seeking leave from 11-07-1986 to 21-07-1986 was not sanctioned on the ground of the exigency of the work and this fact was brought to

the notice of the I party. The I party then sent a telegram dated 21-07-1986 and sought for leave again on the ground of ill health which telegram was responded by the management on 23-07-1986 itself informing him that his request for the leave was not granted. Then the Management sent another telegram 28-07-1986 calling upon the I party to report for duty, his absence being treated as unauthorized absence. He was again informed by letter dated 29-07-1986 to report for duty latest by 04-08-1986. The management after issuing the charge sheet as could be read from the statement of MW 5 called upon the I party to be present himself for medical examination by company's doctor but the I party did not respond to the said letter of the management. It is also in the statement of MW 5 as a last chance by letter dated 05-10-1986, the management advised the I party to undergo medical examination and since he failed to do so enquiry was conducted against him.

13. The above said statement of MW 5, as noted above has gone very much unchallenged and uncontraverted, there being no cross-examination on behalf of the I party. As noted above the I party remained absent before this tribunal so also learned counsel representing him despite sufficient opportunity given to them to cross-examine both the witnesses. Not only I party failed to cross-examine MW 4 and MW 5 but also failed to adduce his evidence such less stepping himself into the witness box. Therefore, the testimony of MW 5 which is very crucial in the matter giving out details of the facts as to what all transpired from the day one till the order of discharge passed against the I party, has gone denied and undisputed. From the very statement of MW 5, of course it has come on record that I party has been sending leave applications, telegrams seeking leave and so also medical certificates but they were not accepted by the management for one reason or other. The main grievance of the management is that the I party did not appear before the Deputy Chief Medical officer of the Management company for the purpose of his medical examination so as to ascertain the truth or otherwise or of his suffering from illness. The explanation given by the I party in his claim statement and in his earlier statement before this court that he could not appear before the medical officer again for the reason that he was unable to move about and was advised complete rest by the doctor, as rightly argued, for the management was neither plausible nor acceptable because admittedly the I party for most of the times was taking the treatment as an out patient, therefore could not have been prevented either to approach the management or to appear before the company's doctor for the purpose of medical examination. Therefore, the absence of the I party from duty without sanctioning of leave and the medical certificate produced by him not being acceptable by the management for the reason that he did not appear before the management

doctor, there cannot be any doubt to come to the conclusion his absence from duty was unauthorized absence Tentamounting to willfully absenting from duty without sufficient cause as provided under company standing orders No. 34 (1) and hence it is to be held that charge of misconduct leveled against the I party has been proved.

14. Now coming in to the quantum of the punishment learned counsel for the management argued that the misconduct was grave in nature and therefore punishment of discharge was proportionate and took support of the following five decisions to meet his point

- 1. 1963 (2) LLJ Page 638—Buckingham and Carnatic Co. Ltd. Vs. Venkatesh
- 2. L.R 1994 Kar. Page 3461
- 3. Vol.82, FJR Page 142—K.I. Varkey Vs. Fact
- 4. 1997 (3) LLN Page 8—Secretary to Government and ors Vs. A.C.J. Britto
- 5. Vol. 106 (2004)FJR, Page 921 (SC)—Delhi Transport Corporation Vs. Sardar Singh.”

15. However, keeping in view the facts and circumstances of the case, it appears to me that having regard to the misconduct committed by the I party the punishment of discharge awarded to him was very harsh and severe in nature. As far as the charge sheet issued to the I party is concerned, it was for his unauthorized absence of the period of hardly 12 days i.e., 11-07-1986 to 21-07-1986. His absence from duty from 21-07-1986 till he was discharged from service not being the subject matter of the charge sheet cannot be taken into account while imposing any penalty or punishment on the I party. Moreover, as has come on record in the very statement of MW 5 that there has been consistent and persistent attempts made on the part of the I party making request to the management for sanction of leave on the ground that he suffered from illness such as kidney disease following by kidney operation and Hyper Tension. This fact, as noted above, has been taken note of by his lordship of Hon'ble High Court at para 8 of the aforesaid decision referred to supra. Therefore, keeping in view the short period of unauthorized absence as per the charge sheet issued to the I party and the various attempts made by him in seeking the leave sanctioned so also keeping in view the fact that there is no evidence brought on record that I party has been indulging himself in unauthorised absence earlier to the incident on hand, punishment of dismissal, so to say, by way of discharge appears to be highly excessive and extreme under the facts and circumstances of the case. The principle laid down by their lordship in the decisions referred to supra and cited on behalf of the Management to justify the order of discharge, in my opinion, are not applicable to the facts and circumstances of the present case. In the first case, the main question involved was the provisions of Section 73 of Employees State Insurance Act with regard to granting of sickness benefit and the point involved for consideration was whether services of

the delinquent concerned could have been dispensed with during the course of sickness leave benefits of which was permissible by the management. In the second case, which is the decision by our Hon'ble High Court workman was remaining absent over a long period of time and had suffered from misconduct of unauthorized absence even on earlier occasions. In the third case again is the decision of our Hon'ble High Court, the workman concerned was charged with misconduct of unauthorized absence on many occasions involving a total period of 91 days and he was found to be habitual absentee. The principle laid down in the fourth decision cited for the management are not in dispute. In that case a responsible Police Officer viz Sub-Inspector having joined duty on 12-11-1980 remained absent from duty continuously till he was placed under suspension on 14-06-1981. Therefore, under the facts and circumstances of the case on hand principle laid down in aforesaid decision are not applicable. Their lordship of Supreme Court in the case reported in AIR 1994 SC Page 214—Union of India and others vs. Giriraj Sharma and a decision reported in AIR 1990 SC Page 1 - B. R. Singh and others vs. Union of India and others have taken the view that an order of dismissal in a case of unauthorized absence would constitute to harsh punishment. Therefore, having regard to the principle laid down by the Hon'ble Supreme Court in the above said two decisions, keeping in view the short period of absence involved in this case and the unblemished record of service of the I party and his attempts to get the leave sanctioned even producing medical certificates, of course not accepted by the management and so also taking into consideration the fact noted by our Hon'ble High Court in the aforesaid order on Writ Petition that I party had already attained the age of superannuation it appears to me that ends of justice will be met if he is punished with holding his annual increments from the date of Original Punishment Order issued against him till the date he retired and denying him 60 per cent of back wages from the date of his discharge order till the date he attained the age of superannuation with all consequential benefits. Hence, the following award.

ORDER

The I party is hereby ordered to suffer the punishment of with holding of four annual increments with cumulative effect from the date of the Original Discharge Order till the date he retired from service. He is entitled to 40 per cent of Back wages during the aforesaid period with continuous service and all other consequential benefits. No order to cost.

(Dictated to L.D.C., transcribed by him, corrected and signed by me on 28th April 2006)

A. R. SIDDIQUI, Presiding Oficer

नई दिल्ली, 23 मई, 2006

का. आ. 2276.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान कॉर्प

लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार्यों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 18/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-2006 को प्राप्त हुआ था।

[सं. एल-43011/5/2000-आई आर. (विविध)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 23rd May, 2006

S.O. 2276.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Copper Ltd. and their workman, which was received by the Central Government on 22-5-2006.

[No. L-43011/5/2000-IR(Misc.)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

Case No. CGIT-18/2001

Reference No. L-43011/5/2000/IR(M)

Sh. Khyali Ram Saini,
S/o Sh. Jai Ram Saini,
R/o Nanuwali Bawari,
Khetri Nagar,

Distt. Jhunjhunu (Raj.)Applicant

Versus

Hindustan Copper Ltd.,
The Executive Director, KCC,
Khetri Nagar,
Distt. Jhunjhunu, (Raj.)Non-applicant

PRESENT

Presiding Officer	:	Sh. R.C. Sharma.
For the applicant	:	Sh. R.C. Jain.
For the non-applicant	:	Sh. Manoj Kumar & Sh. Rajiv Sharma.
Date of award:		31-3-2006

AWARD

1. The Central Government in exercise of the powers conferred under Clause 'D' of sub-sections 1 & 2(A) to Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act') has referred this industrial dispute for adjudication to this Tribunal which runs as under:

"Whether the action of the management of Hindustan Copper Ltd., Dist. Jhunjhunu in terminating the services of Khyali Ram Saini S/o Sh. Jai Ram Saini

w.e.f. 30-8-92 was justified? If not, to what relief the workman is entitled to and from what date?"

2. The workman has pleaded in his claim statement that he was working as a casual worker w.e.f. 15-11-82 in the non-applicant company, that a pool was constituted of casual workers in the company and as per the requirement of the authorities of the company assigned the work to the casual workers. He was continuously working in the company, but he was declined to join the duty w.e.f. 30-8-92. Assailing the validity of his termination the workman has stated that prior to the termination neither the notice was issued to him nor the pay in lieu of the notice and the retrenchment compensation were paid to him under Section 25-F of the Act. He has further stated that at the time of terminating his service no seniority list under Section 25-G and Rule 77 of the ID Rules, 1957 was prepared and several junior casual workers to him were working, out of them the services of several workers have been regularized. He has also stated that subsequent to his termination the company has recruited the fresh hands to discharge the similar work and has acted in violation of Section 25-H of the Act and Rule 78 of the Rules, 1957. He has further stated that thousands of workers were working in the company on 30-8-92, but even then the sanction under Section 25-N of the Act was not obtained by the company prior to his termination. He has stated that the work performed by him was perennial in nature and has urged that he be reinstated in the service with its continuity and back-wages.

3. The non-applicant has disputed the claim of the workman in his written-counter and it transpires from the perusal of the written-counter that two working systems were prevalent in the company relating to the casual workers. Under one system a pool was constituted as per the settlement between the Union of the employees and the company which consisted of the casual workers performing their jobs on regular basis in the company and for carrying out the remaining works/additional work, under the another system, the daily wagers holding the employment exchange registration cards were given the remaining jobs by the company. The non-applicant has further stated that the disputant has never continuously worked under the employment of the company, that he was orally engaged on contractual basis for specified period and the contract came to an end on the expiry of its period. As such, the workman's case is not covered under Section 2(oo) of the Act. He has also stated that the workman's engagement was a contract for service and not a contract of service. The non-applicant has then categorically denied any infringement on the part of the company of the provisions under Section 25-F, 25-G and 25-H of the Act.

4. On the pleadings of both the parties, the following points for determination were framed :

- I. आया केन्द्रीय सरकार के द्वारा प्रेषित निर्देश औद्योगिक विवाद अधिनियम, 1947 की धारा (क) के अन्तर्गत औद्योगिक विवाद की परिभाषा में आता है?
- II. आया प्रार्थी ने विपक्षी संस्थान में दिनांक 1-6-87 से 30-8-92 तक आकस्मिक श्रमिक के रूप में निरंतर कार्य किया?
- III. आया प्रार्थी के मामले में नियोजन की सेविदा "कान्ट्रैक्ट फार सर्विस" था न कि "कान्ट्रैक्ट ऑफ सर्विस" यदि हां तो इसका प्रभाव?
- IV. आया प्रार्थी की सेवामुक्ति अप्रार्थी के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 25-एफ, जी, एन व औद्योगिक विवाद (केन्द्रीय) नियम, 1957 के नियम-77 का उल्लंघन कर की गई?
- V. प्रार्थी क्या सहायता प्राप्त करने का अधिकारी है?
- VI. क्या विपक्षी संस्थान द्वारा प्रार्थी की सेवामुक्ति के पश्चात् धारा 25-एच अधिनियम के उल्लंघन में नई नियुक्तियां की गई हैं?

5. In the evidence, the workman has submitted his affidavit and on behalf of the non-applicant, the counter-affidavit of MW-I, Jagdish Lal, Chief Manager (Personnel) has been brought on the record. Both these witnesses were cross-examined by the respective opposite representative. Both the parties have also led the documentary evidence on the record.

6. I have heard both the parties and have scanned the record. The point-wise discussion follows as under :

Point No. I

7. The workman has raised the industrial dispute with regard to his termination against the company. Section 2(K) defines that industrial dispute means as any dispute between employer and workman which is connected with the employment or non employment of any person.

8. The Ld. representative for the company has contended that the workman had discharged his duties in accordance with the engagement orders and it was an oral contract for specific period, therefore, it does not fall within the ambit of Section 2(K) of the Act. But this submission cannot be sustained in view of the definition under Section 2(K) of the Act. Since the workman has raised the industrial dispute with regard to the termination of his service on various counts, which is between the employer and him, the provision under Section 2(K) of the Act is attracted. This issue, therefore, is decided in favour of the workman and against the company.

Point No. II

9. The Ld. representative for the workman contends that the workman had continuously worked from 15-11-82 to 30-8-92 and in support of this fact the workman has filed

his affidavit. The Ld. representative has contended that this Court vide its order dated 7-8-2002 on workman's request had summoned the documents, which have not been filed and the payment vouchers as desired have been partly submitted by the company. Therefore, the adverse inference should be drawn against the non-applicant.

10. Counteracting these submissions, the Ld. representative for the company submits that the workman had not continuously worked and that two systems relating to casual workers were prevalent in the company. Under the first system, those workmen were engaged who were empanelled in the pool and under the another system for discharging the remaining work the casual workers having the registration cards issued by the employment exchange in their favour were given the said work. The Ld. representative has then contended that the engagement orders produced by the company shows the specific period for which they were employed and the payment of wages was made to them. On expiry of the said period, their engagement automatically came to an end. He has also contended that Ex. M-8 is the identity card issued by the company to the casual workers holding the registration cards and similar cards were issued to the workman also, who has not placed them on the record to show that he was continuously engaged by the company.

11. In the rejoinder, the Ld. representative for the workman has sought to controvert the submissions made on behalf of the company that there was no fixed term appointment, that all the engagement orders have not been filed, that it has not been mentioned in the engagement orders that on the expiry of the term the contract would automatically come to an end and that these engagement orders were not given to the workman. He has also contended that there was no written contract and has challenged the Ex. M-8, identity card that it is not concerned with the workman in question and no identity card relating to the workman has been placed by the company. He has also contended that the decisions referred to on behalf of the company are not relevant as they deal with the question of regularization of the services.

12. I have bestowed my thoughtful consideration to the rival contentions and have carefully gone through the judicial pronouncements referred to before me.

13. On behalf of the company as many as six engagement orders have been placed on the record, which though could not be marked as exhibits, these engagement orders speak of the term of appointment for which they were issued to the workman. The workman was confronted with these engagement orders in his cross-examination and he has admitted these documents. The next category of document is the payment sheets or vouchers which includes from Ex. M-1 to M-7. Ex. M-8 is a model identity card issued in favour of one casual worker named Banslunder Saini. The Ld. representative for the workman

has questioned that Ex. M-1 to M-6 have been wrongly marked on behalf of the company, which MW-1 did not purport to exhibit them. His submission is that purported documents as shown from Ex. M-1 to M-8 in the affidavit of MW-1 Jagdish Lal are the engagement orders. The Id. representative has drawn my attention towards para 19 of the affidavit of Jagdish Lal, wherein he has stated that the persons who were sent by him to various branches for discharging the casual work, their particulars are mentioned in the Ex. M-1 to M-8.

14. If this version of the witness at para 19 of affidavit is accepted then the engagement orders cannot be linked to it, since they are six in total, whereas Ex. M-1 to M-8 on record seem to be referred by the management witness who has marked the 8 documents as Ex. M-1 to M-8 in his affidavit. Apart it, the workman was also confronted in his cross-examination with the payment sheets/vouchers Ex. M-1 to M-7 and he has admitted that they bear his signatures between A to B respectively. These documents also contain the number of working days and the payment of wages made to the casual workers as mentioned therein. As such, this contention cannot be maintained that the payment sheets/vouchers have been wrongly marked on behalf of the company.

15. The workman in his claim statement has categorically stated that he had continuously worked in the period in question, but in his affidavit he has further improved his version by stating that in each calendar year he has completed more than 240 days of actual work. In support of this submission, the workman has failed to adduce any documentary evidence on the record.

16. In (2005) 8 SCC 750 Surendranagar Distt—Panchnayat v/s. Dahyabhai Amor Singh, referred to on behalf of the company, the Hon'ble Apex Court has held that as per Section 25 B of the Act the workman shall be said to be in continuous service for one year when he is in the employment of employer for the continuous uninterrupted period of one year except the period of absence permissible under the Section. The Hon'ble Court goes on to observe that "the provisions postulate that if the workman has put in atleast 240 days with his employer, immediately prior to the date of retrenchment, he shall be deemed to have served with the employer for a period of one year to get the benefit of Section 25 F".

17. Now, I proceed to examine the evidence gathered on the record on this point. In his cross-examination the workman has admitted that a pool was constituted in the company and the remaining work, which could not be completed by the casual workers belonging to pool, was assigned to him. He has also admitted that he had worked in various branches of the company such as in the smelter, wirebar, canteen, rope way line and town administration, etc. and has also clearly admitted that he was not empanelled worker.

18. It is obvious from the aforesaid admissions of the workman that during the period in question he had not continuously worked uninterruptedly for a period of one year and in the preceding calendar year from 30-8-91 to 29-8-92 prior to his termination he has not completed 240 days of actual service with his employer.

19. The workman has also admitted that identity cards similar to Ex. M-8 were issued to him, which used to be issued on employment of the workman and a few of them are lying with him.

20. This fact has also surfaced from the workman's deposition that he had worked in the different branches of the company on different occasions and was not continuously working under the same branch. The facts which emerge from his testimony are (i) that admittedly he was assigned the job intermittently on the basis of need of work and (ii) that he was assigned different kinds of job which are not perennial in nature. The Id. representative for the company has placed his reliance upon 2005 LLR SC 235 wherein the Hon'ble Court has observed that when the workman was temporarily employed on the requirement of work in different departments of the Corporation, which he accepted, then a conclusion drawn by the Tribunal, that the number of days of work put in by the workman in broken period could not be taken as a continuous employment for the protection under Section 25-F of the Act, is justified. The submission advanced on behalf of the company that the workman was not in continuous employment of the company finds support from the referred to decision and is maintained.

21. Similarly, the Id. representative for the company has also contended that the workman was not employed against any permanent vacant post but on exigencies of work he was entrusted the jobs of the different kinds; The Id. representative in support of his submissions has invited my attention towards 2005 LLR SC 1 wherein the Hon'ble Apex Court has observed that the respondent (workman) could not claim permanency since there was no permanent post. It lends support to the submission advanced on behalf of the company and on this count too, the workman's claim for his reinstatement in the service cannot be accepted.

22. The Id. representative for the workman has contended that the adverse inference should be drawn against the non-applicant since the documents in pursuance of the order dated 7-8-2002 have not been placed on the record by the company. As against it, the Id. representative for the company submits that for drawing the adverse inference it is necessary for the workman to prove the existence of that document. The Id. representative has placed his reliance on 2005 LLR SC 1 and (2205) 8 SCC 750.

23. In (2005) 8 SCC 750, a question had arisen before their Lordships for the non production of the seniority list

of the daily wagers and the stand of the establishment was that no such seniority list was maintained by the department. The Hon'ble Apex Court has observed that in the absence of the regular employment of the workmen, establishment was not expected to maintain the seniority list of the employees engaged on daily wages and in the absence of any proof by the workman regarding existence of seniority list of the so-called seniority, no relief could be given to him for non compliance with the provisions of the Act.

24. In the another decision 2005 LLR SC 1, the Hon'ble Court while considering the benefit of reinstatement granted solely on the basis of adverse inference drawn against the employer, has referred to the views expressed by the Hon'ble Court in its earlier judgment 2004 —LLR 1022, which is usefully quoted as below:

“A court of law even in a case where provisions of the Indian Evidence Act apply, may presume or may not presume that if a party despite possession of the best evidence had not produced the same, it would have gone against his contentions. The matter, however, would be different where despite direction by a court the evidence is withheld. Presumption as to adverse inference for non-production of evidence is always optional and one of the factors which is required to be taken into consideration in the backgrounds of facts involved in the list. The presumption, thus, is not obligatory because notwithstanding the intentional non-production, other circumstances may exist upon which such intentional non-production may be found to be justifiable on some reasonable grounds.”

25. In the light of the principles propounded by the Hon'ble Apex Court in the decision supra, I am called upon to determine whether the adverse inference can be drawn against the company in the instant controversy.

26. *Vide* order dated 7-8-2002, the non-applicant was called upon to produce the vouchers for the period from 1-6-87 to 30-8-92, the seniority list dated 30-8-92 containing the names of employees in the category of the post of the workman and the list of appointment of the workmen after 30-8-92 on the equivalent post. The non-applicant had opposed the workman's application dated 27-12-2001 by stating that these documents are not relevant and the relevant document has already been produced before the Tribunal. In the order dated 1-11-2002, it has been noted that in pursuance of the order dated 7-8-2002 a few documents have been placed on the record by the non-applicant, but the seniority list dated 30-8-92 and the list of appointment of the fresh hands were not placed on the record and the adverse inference may be drawn against these documents, which appears to be subjected to further evidence since no conclusive inference could be drawn at that stage prior to the submission of the evidence. It is further revealed that on the same analogy the application dated 6-1-2003 submitted on behalf of the company seeking

the permission to place the remaining vouchers was allowed after hearing both the parties and observing that it does not amount to the reviewing of the previous order of Tribunal. Therefore, under these changed circumstances the question has to be adjudicated.

27. So far as the seniority list and appointment list dated 30-8-92 is concerned, the workman could not bring any iota of evidence on the record that both these types of lists ever existed with the company and as such following the principles propounded by the Hon'ble Apex Court in the decision supra on account of their non-production of these two documents, no adverse inference could be drawn. The payment vouchers Ex. M-1 to M-5 have been adduced by the non-applicant and MW-I Jagdish Lal has deposed in his cross-examination that all the engagement order relating to the workman till 30-8-92 have not been produced on the record, but all the vouchers have been submitted. Similarly, he has also stated in his cross-examination that the attendance register of the workmen is kept separately by the concerned department, which have not been placed on the record, but their attendance have been submitted before the Court. Firstly, it is evident that the vouchers of the relevant period which were called for from the company have been produced on the record. Secondly, though the attendance registers and engagement orders were not summoned from the company, yet the management witness has satisfactorily explained that the attendance of the workman has been shown before the Court and has further stated that though all the engagement orders could not be placed on the record, yet the relevant vouchers have been produced before the Court. These vouchers also contain the number of working days, which are sufficient to explain the period of employment of the workman. On these facts, no adverse inference can be drawn against the company and the submission canvassed on behalf of it finds support from the decisions supra.

28. It is also noteworthy here that on the one hand the workman has asserted that the relevant documents have not been placed by the company before the Court, but on the other hand the workman has admitted in his cross-examination that some of the gate passes issued to him are lying with him, which he has not produced before the Court. On a perusal of the model gate pass Ex. M-8 it is revealed that it also contains the period of employment of the concerned workman. By producing the gate passes, the workman could clearly show his period of employment with the company. It is fairly settled law that the initial burden of proving the fact of continuous service or completion of 240 days of work in a calendar year preceding to the termination rests with the workman and the gate passes issued by the company to the workman could be the best evidence to discharge the onus of this issue, which the workman has not 'produced before the Court and no reasonable explanation could be offered on his behalf for their non-production before the Court.

29. To conclude, the workman has failed to discharge the onus of point no. II, which is decided against him.

Point No. III

30. It has been contended on behalf of the company that the employment of the workman was a contract for service and it was not a contract of service. It has been opposed on behalf of the workman by contending that the workman was regularly working with the company. MW-1 Jagdish Lal has specifically stated in his affidavit that the additional work or the remaining work which could not be completed by the casual workers belonging to pool, used to be entrusted to the registration card holder casual workers. This fact is further fortified by the oral testimony of the workman. In his claim statement the workman at the opening para of his claim statement has stated that he was working as a casual worker w.e.f. 15.11.82 with the company and according to the need of the work, the non-applicant establishment used to assign the work to the casual workers. Therefore, the plea set forth on behalf of the company that it was a contract for service and not a contract of service is even corroborated by the pleadings and admission of the workman. As such, this point is decided in favour of the company and against the workman.

Point No. IV

31. The ld. representative for the workman contends that subsequent to the workman's termination, the new appointments of casual worker have been made. He has further stated that Ex. W-1 is the seniority list of the workmen and Ex. W-2 is their present status which shows the new appointments. It has been opposed by the non-applicant.

32. The workman neither in his claim statement nor in his affidavit has deposed the names of such daily wagers who were employed subsequent to his termination. On a perusal of the lists Ex. W-1 and W-2 it is revealed that the name of the workman does not figure therein. MW-1 Jagdish Lal in his cross-examination has stated that as per settlement 1995, eight casual workers were taken into service, whose dates of engagement he can only point out after looking in to the office record, but has emphatically denied the workman's suggestion that they were appointed subsequent to workman's termination. Since the employment of these 8 persons was regulated by the settlement between the union and the management, the workman's case cannot be equated to them, especially when the witness has denied the suggestion that they were engaged subsequent to workman's termination. The workman in his affidavit has nowhere pleaded that subsequent to his termination while the new hands were recruited, he was not offered an opportunity of employment. In 2005 LLR AP 4, relied upon by the ld. representative for the company, the Hon'ble Court has observed that the workman was required to plead that he was not offered the employment by the establishment prior to recruiting the

fresh hands. As such, the plea put forth by the workman is vague and from the evidence gathered on the record it cannot be inferred that the non-applicant has employed the fresh hands in the same category subsequent to workman's termination in violation of Section 25-H of the Act. This point, therefore, is decided against the workman.

Point No. V

33. The issue relating to Section 25-F of the Act has already been discussed under point no. II. Now, I advert to the questions pertaining to the provisions under Section 25-G and 25-N of the Act respectively.

34. So far as the retention of the junior employees to the workman is concerned, the ld. representative for the workman submits that the services of Rameshwar Lal Saini and Brij Kishor Sharma, who were juniors to the workman were regularized after the workman's termination.

35. Ex. W-1 and W-2, the seniority lists of the workmen were placed on the record by the workman during the submission of the management evidence. It is further shown that Ex. W-2 is the present status of the workmen shown in Ex. W-1. As stated earlier, the lists Ex. W-1 and W-2 do not carry the name of the workman, nor they include the names of Rameshwar Lal Saini and Brij Kishor Sharma.

36. Coming to the oral evidence, MW-1 Jagdish Lal in his cross-examination has stated that subsequent to 30.8.92, 64 registration card holder casual workers were working and their list was not prepared by the department. He has further stated that he cannot point out their dates of employment since they were engaged on different dates. His version is natural as a person cannot be expected to point out orally the dates of appointment of 64 persons. However, no suggestion could be put on behalf of the workman to the witness indicating the particular casual worker out of these 64 persons who being a junior to workman was retained in service. He has also stated that Brajesh Kumar and Rameshwar Lal were working for the last 18/19 years, but they were not the casual workers, who were working for the sports council on stipend basis. He has emphatically stated that they were not appointed on 31.8.95. He has further stated that in the list Ex. W-1 there are some registration card holder casual workers, who were junior to the workman, but their services continued since they were performing the job of sweeping. No specific question could be put to this witness as to which casual worker having the registration card was junior to the workman whose service was retained or regularized by the company subsequent to the termination of the workman. Neither in the claim statement nor in the affidavit the workman has disclosed the names of such junior persons to him whose services were retained by the company in violation of the provision under Section 25-G of the Act. It is pertinent to note here that the workman has nowhere pointed out in his pleadings the names of such junior persons whose services were retained or regularized while

terminating his services, except incorporating a general plea that juniors to him were retained or their services were regularized. The initial burden lies upon him to prove this fact by adducing the definite and positive evidence. Merely by putting the vague and ambiguous questions to the management witness in his cross examination in order to extract a favourable answer, only appears to be an attempt made by him for groping the redress. The management witness could satisfactorily explain the factual position in this regard and the workman has failed to establish that junior persons to him were retained by the company while terminating his service.

37. Now, the question remains with regard to non-compliance of the provision under Section 25-n of the Act. Under the foregoing points, it has been decided that the workman was not in the employment of company for a continuous period of one year. Accordingly, this provision is not attracted.

38. To sum up, the workman has failed to discharge the burden of proving these issues, which are accordingly decided against him.

RELIEF

39. For the foregoing reasons, the workman is entitled to no relief.

40. In the result, the reference is answered in the negative against the workman and it is held that the termination order dated 30.8.1992 passed against the workman is justified. His claim is rejected. An award is passed in these terms accordingly.

41. Let a copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

R.C. SHARMA, Presiding Officer

नई दिल्ली, 23 मई, 2006

का. आ. 2277.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. सेसा गोआ लि. मै. ऐजेंसिया अल्ट्रामरीना प्रा. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय -II, मुम्बई के पंचाट (संदर्भ संख्या 2/39 आफ 2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-06 को प्राप्त हुआ था।

[सं. एल-29011/3/2000-आईआर(विविध)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 23rd May, 2006

S.O. 2277.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/39 of 2004) of the Central Government Industrial Tribunal-cum-Labour Court No-2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of M/s. Sesa Goa Limited M/s. Agenzia Ultramarina Pvt. Ltd. and their workmen, which was received by the Central Government on 22-5-2006.

[No. L-29011/3/2000-IR (Misc)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 AT MUMBAI PRESENT

A.A. LAD, Presiding Officer

Reference No. CGIT-2/39 of 2004
(OLD Reference No. CGIT-2/51 of 2000)

Employers in relation to the Management of

(1) M/s. SESA GOA LIMITED
The Managing Director,
M/s. Sesa Goa Limited,
Sesa Ghor, Potto Plaza,
Panji (Goa) 403001.

(1-A) M/s. AGENCIA ULTRAMARINA PVT. LTD.
Roshan Mahal, Swatantrapath,
P.O. Box No.42,
Vasco-da-Gama (Goa) 403 802

V/s.

Their Workman

The General Secretary,
The Marmagoa Waterfront Workers Union,
Mukund Building, 2nd floor, P.O. Box No. 90,
Vasco-da-Gama, (Goa).

APPEARANCES

For M/s. Sesa Goa Ltd. : Choose this time not to Participate.

For M/s. Agencia Ultramarina Services Pvt. Ltd. : Mr. Girish Sardesai, Advocate

For the workmen : Mr. F.X. Rodrigues, General Secretary, M.W.F. W. Union, Vasco

Date of reserving Award : 18th April, 2006.

Date of passing of Award : 25th April, 2006.

AWARD

1. First Party, M/s. Sesa Goa Ltd. is a Company incorporated under the Companies Act, 1956 and is engaged in the extraction and export of iron ore, barge building and manufacturing of pig iron and coke. It owns the sea going vessel M. V. Orissa, which is registered under the Merchant Shipping Act, 1958. The said vessel was purchased in 1996 with the objectives of utilizing the same for transporting the cargo and also as a transhipper at

Mormugao Harbour. M. V. Orissa, came to Goa in March, 1996 and the First Party, M/s. Sesa Goa Ltd., awarded contract to Party No. I (A), M/s. Agencia Ultramarina Services Private Limited, for carrying out loading and unloading activities on board M. V. Orissa (for short, referred to as the "Vessel"). This contract was for a period of six to eight months in a year, depending upon the requirements and the availability of the cargo. Hereinafter they are called as Party I and Party I-A. Party No. I (A) is a private limited company, registered under the Companies Act, 1956 and apart from other activities, it is engaged in stevedoring and handling agencies. Whereas, Second Party, Union, is a registered trade union, claiming to represent the workmen employed by Party I (A) and deployed on the Vessel.

2. By work order dated 6-2-1997, the Party I, Company, engaged Party No. I (A) for looking after the complete transhipping activities of the Vessel on the terms and conditions set out therein. The period of contract was from March, 1996 to December, 1997 and by another work order dated 2-1-1999, the period was fixed from January, 1999 to December, 1999 and it appears that by another Order dated 11-2-1998, the contract period fixed was from 1-1-1998 to 31-12-1998.

3. The Party I contends that due to global recession and for allied reasons spelt out in their letter dated 11-6-1999, it had terminated its contract with Party No. I (A) and consequently, the contractor had no option but to declare closure of his business operation on board the Vessel with effect from 3-7-1999. In turn, the services of the workmen engaged by Party No. I (A) on the Vessel were also terminated by payment of legal dues. However, the Party No. I having decided to place the transhipper in operation again, by its letter dated 27-10-1999, offered limited contract of crane operation jobs to Party No. I (A), which in turn, by its letter date 29-10-1999, called upon the crane operators whose services were terminated as a result of closure operations, to rejoin and confirm their willingness. This offer was followed by a telegram dated.... However, the workmen took a stand that unless all the 24 employees were reemployed after discussions with Party No. I Union, they would not be willing to join, but for one Supervisor and Three operators. Under these circumstances, Party No. I (A) therefore, had no option, but to recall the balance crane operators to fulfill the new contract with the Party No. I. The workmen, through Second Party, Union, raised an industrial dispute before the Assistant Labour Commissioner (Central) at Vasco-da-Gama, and claimed reinstatement with back wages in the operations on the Vessel. It appears that separate disputes were raised by Second Party, Union, against the Party No. I as well as Party No. I (A), contractor. By letter dated 1-6-2000, the Under Secretary, Ministry of Labour, Government of India, by referring the failure report, submitted by the Conciliation Officer on 10-1-2000, informed that the Ministry did not

consider the dispute fit for adjudication for the reasons that the workmen involved in the dispute were appointed by the Contractor for specific periods and they were terminated from services on completion of the work. At the same time, by order dated 19-5-2000, the said Under Secretary referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of M/s. Agencia Ultramarine Pvt. Ltd., Goa, in retrenching the services of 24 workmen (Annexure A) with effect from 30-6-99 working in transhipper M. V. Orissa of M/s. Sesa Goa Ltd., is legal and justified ? If not, to what relief the Workmen are entitled?"

4. 2nd Party, Union filed its statement of claim at Exhibit 6 and pleaded that the 24 terminated workers were, in fact, the employees of the Party No. I and Party No. I (A) was only the name sake contractor. They were de facto employees of the Party No. I and the contract between the Party No. I and Party No. I (A), contractor, was a sham and bogus arrangement only to avoid legal liabilities in respect of these 24 workmen.

5. Both, the Party No. I as well as the Party No. I (A), raised objections to the framing of issues regarding the existence of employer and employee relationship between the Party No. I and the retrenched workmen. After hearing both the parties my predecessor by his order dated 3-10-2001, rejected the said objections and, therefore, the reference proceeded further.

6. On behalf of the Party No. I. Mr. Satish Thayapurath, who was working as Deputy Manager in the River Fleet Department was examined as a witness. Mr. Sudhi Manerkar, Director of Party No. I (A), contractor, was examined as a witness of Party No. I (A) and on behalf of the workmen i.e. Second Party Mr. Francisco Xavier Rodrigues, General Secretary of the Second Party, Union, Mr. Wilson Dias, Fitter and Manoj Salgaonkar, Crane Operator were three witnesses examined.

7. My predecessor by the impugned award has held that, action of the Party I—M/s. Sesa Goa Limited, through its agent M/s. Agencia Ultramarina Services Private Limited in retrenching 24 workmen working on T.V. Orissa owned by it is illegal and directed M/s. Sesa Goa Limited to reinstate with full back wages. Order of my predecessor is like this :

"The action of the employer M/s. Sesa Goa through its agent a mere name lender M/s. Ultramarina, in retrenching the 24 workmen under reference working in transhipper "T.V. Orissa" owned by it w.e.f. 30-6-1999 is illegal and improper, consequently the employer M/s. Sesa Goa is directed to reinstate the workers under reference in service with full back wages and continuity in service."

8. After decision was given by my predecessor i.e. after passing Award, Writ Petition was filed by Party I i.e. by M/s. Sesa Goa Limited impleading Union as Respondent No.1 and M/s. Agencia Ultramarina Services Private Limited as Respondent No. 2. This Tribunal was also made party alongwith Union of India. In the Reference my predecessor observed that action of M/s. Sesa Goa Ltd., through its Agent M/s, Agencia Ultramarina Services Private Limited in retrenching 24 Workmen under the Reference working in Transhipper T. V. Orissa owned by it with effect from 30th June, 1999 is illegal and improper and directed M/s. Sesa Goa Limited to reinstate those workers, involved in the Reference. This order was challenged by filing Writ Petition No. 182 of 2004 and while deciding it Hon'ble High Court at Goa-Panji observed that the Contractor i.e Party No. I(A) was an independent legal entity incorporated in the Companies Act, 1956 and the Workmen involved in the Writ Petition were its employees. Hon'ble High Court also observed that they are not concerned with the Party I and there is no relation of Employer and Employee between them i.e. Observing like that Hon'ble High Court sent Reference back to this Tribunal Party No.1 and employees of Respondent No.1 with the directions to decide the relationship between Party I(A) i.e. Respondent No. 2 of the Petition by name M/s. Agencia Ultramarina Services Private Limited and member of Respondent No.1 Union quashing and setting aside the Order passed by this Tribunal on 1st June, 2002 in order to adjudicate the relief prayed by the Workmen i.e. by member of Respondent No.1 Union against Party No. I(A)- i.e. Respondent No. 2 of the Writ Petition. The order is like this:

“20. In the result, this petition succeeds as the impugned award suffers from errors apparent on the face of the record and the finding recorded by the Tribunal regarding the employer and employee relationship between the petitioner Company and the retrenched workmen, is wholly unsustainable. The impugned Award is, therefore, quashed and set aside and the reference, as made vide Order dated 1-6-2000 by the Competent Authority is, hereby remanded for fresh adjudication against Respondent No. 2 Contractor. Alone”

9. As a result of the direction given by the Hon'ble High Court now points before this Tribunal will be as follows:

<u>POINTS</u>	<u>Finding</u>
1. Whether employees involved in the Reference are the employees of Party No. I(A) i.e. of M/s. Agencia Ultramarina Services Private Limited?	Yes
2. If yes, the action under the challenge was taken by it?	Yes
3. If yes, whether it was legal?	Yes
4. What order?	As per order below.

Point No. 1 :

10. Hon'ble High Court while deciding Writ Petition No. 182 of 2004 observe that the employees involved in this Reference who are the members of Second Party Union, are not concerned with employment or Party No. I i.e. they are not employees of M/s Sesa Goa Limited. Said decision is not challenged by either of party till this moment. First party by purshis Exh. 110 appeared before this Tribunal as per the directions given by the Hon'ble High Court in Writ Petition No. 182 of 2004 and chose not to contest reference remanding regarding relationship of employer with Party (I-A) where Party I-A and Second Party chose not to lead any evidence by filing joint purshis at Exhibit 113. Then Second Party, Union submitted written arguments at Exhibit 115 and Party I(A) at Exhibit 121. It is pertinent to note that though Party No. I i.e. M/s. Sesa Goa Ltd. appeared before this Tribunal after the remand of the Reference but disclosed its intention to that effect by filing purshis at Exhibit 110.

11. That means evidence which was already recorded by my predecessor in this Reference is the only evidence even to decide the point which are taken into consideration. As observed by the Hon'ble High Court employees involved in the Reference are not concerned with Party No. I i.e. M/s. Sesa Goa Limited. When they are not employees of M/s. Sesa Goa Limited and when they are not directly concerned with Party No. I(A)i.e. employees of M/s. Agencia Ultramarina Services Private Limited, we have to decide how their demand regarding Party No.1(A) i.e. M/s. Agencia Ultramarina Services Private Limited is tenable.

12. Alongwith above written submissions filed by the concerned parties i.e. Party No. I(A) and Second Party Union, the Ld. Advocates appearing for Party No. I(A) submit that, now Reference against it is not tenable, as in the Statement of Claim no relief is sought by the Second Party, Union, against Party No. 1 (A) i.e. against contesting Employer. Moreover, Reference was not sent by the Competent Authority to adjudicate it against Party No. I(A) i.e. against M/s. Agencia Ultramarine Services Private Limited. If we peruse the Reference and the pleadings of the parties, the impression carried by Party I A and his Advocate in my considered view, has no meaning since reference itself is in connection with the action taken by Party I(A) i.e. M/s Agencia Ultramarine Service, Pvt. Ltd., Goa, saying that, retrenchment done by it of 24 Workmen working on Transhipper T.V. Orissa of M/s. Sesa Goa Limited is legal and justified? So schedule of the Reference itself involves present Party No.1 (A) i.e. M/s., Agencia Ultramarine Services Private Limited as well as M/s. Sesa Goa Limited observing that, Workmen working on Transhipper T.V. Orissa belongs to M/s. Sesa Goa Limited who were terminated by Party No. I(A) i.e. by M/s. Agencia Ultramarine Services Private Limited is justified. So in my considered view the objection raised by the Party I (A) and his Advocate that, nothing is claimed against his client i.e. against Party No. I(A) has no meaning as Reference itself involves Party No. I(A) M/s Agencia Ultramarina Services Private Limited.

13. Another contention taken by Advocate of the Party I was that, Party No. I i.e. M/s. Sesa Goa Ltd. does not appear in the proceedings after remand and as such Reference cannot be proceeded alone against Party No. I (A). However, as referred above, in the judgment Hon'ble High Court observed that Party No. 1, M/s. Sesa Goa Ltd., is not concern and is relieved observing that, it is not concerned with the demand of the employees involved in the Reference as they are not employees of Party No. I and are the employees of Party No. I(A). When it is observed like that they are the employees of Party No. I(A) i.e. M/s. Agencia Ultramarina Services Pvt. Ltd. and when observed by the Hon'ble High Court that they are not concerned with Party No. I i.e. M/s. Sesa Goa Limited, in my considered view, absency of Party No. I, M/s. Sesa Goa Limited, does not create any hurdle and help Party No. I(A) to secure any relief or favour in its favour. Above all Party No. I has filed purshis at Exhibit 1110 intimating that, since it is not concerned with the Reference as observed by Hon'ble High Court it did not want to take part in the Reference before this Tribunal in the second round of decision of same reference.

14. So now position of Party No. I(A) i.e. M/s. Agencia Ultramarina Services Pvt. Ltd. and Second Party, Union remains. As observed by Hon'ble High Court that they are not Workmen of Party No. I i.e. M/s. Sesa Goa Limited. However, admittedly the proceedings reveal that, they were working with M/s. Agencia Ultramarina Services Pvt. Ltd., the Agency which is controlling and monitoring the workers working on Transhipper T.V. Orissa, belonging to M/s. Sesa Goa Limited, as a Contractor. Said work is got done by Party No. I(A) through the Workmen under the Reference working on the Transhipper T.V. Orissa belonging to M/s. Sesa Goa Limited. So now it is the matter of record that, employees involved in this Reference were purely under the control of M/s. Agencia Ultramarina Services Pvt. Ltd. They were paid by it. They were regulated by it. They had control over it. They were having control of M/s. Agencia Ultramarina Services Pvt. Ltd. So definitely they are concerned with Party I (A) i.e. M/s. Agencia Ultramarina Services Pvt. Ltd. and were the employees of it. They were working on the Transhipper T.V. Orissa of M/s. SESA Goa Limited. It is a matter of record that, Transhipper T.V. belongs to M/s. Sesa Goa Limited and to function the said Transhipper i.e. T.V. Orissa, employees were engaged through M/s. Agencia Ultramarina Services Pvt. Ltd. It is matter of record that, M/s. Sesa Goa Limited was funding M/s. Agencia Ultramarina Services Pvt. Ltd. to do the activities on the Transhipper T.V. Orissa of M/s. Sesa Goa Limited. However, M/s. Sesa Goa Ltd. was not having over all control over the activities though it was funding for the activities to carry articles through Transhipper T.V. Orissa.

15. It is also a matter of record that, said work was not of a perinnal, nature and of permanent nature i.e. of 12 months. The area where Transhipper T.V. Orissa was working and where First Party and Party No. I(A) were doing their activities, was of seasonal nature. It is held up

in the rainy season and excluding the rainy season, the work on Transhipper T.V. Orissa was activated through M/s. Agencia Ultramarina Services Pvt. Ltd. Break was given to the Workmen in the rainy season. Even there is contract to that effect. Even settlement took place between the Second Party Union and Party No. I (A) i.e. M/s. Agencia Ultramarina Services Pvt. Ltd. Union refused the act as per contract as well as the action of stopping workers in attending duties with etTect from 11th June, 1999. The said decision is challenged in the Reference by the Second Party, Union. The reason given by the First Party i.e. M/s. Sesa Goa Limited that, they are unable to continue the contract signed by it with Party No. I(A), M/s. Agencia Ultramarina Services Pvt. Ltd., as it is not feasible and work to continue. They also stated that, said shipping function going on between November to May every year and only in that tenure, employees can be engaged on it and rest of the period shipping has to keep idle and Workmen has to be relieved from it. Even stand taken by Party No. I(A) i.e. M/s. Agencia Ultramarina Services Pvt. Ltd. that, due to closure of operation on Transhipper T.V. Orissa, they have retrenched the employees. Even in the reply given at Exhibit 19, relations of the employees is not challenged by the Party No. I(A). They are not shifting the relation with Party No. 1 i.e. M/s. Sesa Goa Limited. The reasons given by it is that, due to global recession and for allied reasons spelt out in letter dated 11th June, 1999 Party No. I i.e. M/s. Sesa Goa Limited terminated the contract with Party No. 1 (A) i.e. with M/s. Agencia Ultramarina Services Pvt. Ltd. and as a result of that, First Part has to terminate the services of the employees involved in the Referencee working on Board of Transhipper T.V. Orissa. So this itself reveals that, Party No. I(A) i.e. M/s. Agencia Ultramarina Services Pvt. Ltd. has accepted the responsibility as well as accepted the relationship of employer and employee with members of the Second Party, Union, i.e. with workers involved in the Reference and have stated that, because of that they terminated their services with effect from 3rd July, 1999. Even they have made out the case that, retrenchment compensation was given and legal dues were paid to all. So this itself reveals that, workmen involved in the Reference are the employees of Party No. 1(A) who is independent Contractor entered into contract with Party No. I i.e. M/s. Sesa Goa Limited and so the Workmen involved in the Reference to work on Transhipper T.V. Orissa are the employees of Party I (A). So I conclude that, the employees involved in the Reference are the employees of Party No. I(A) and accordingly I answer this point in the affirmative.

Point Nos. 2 and 3 :

16. Since I have concluded that, the employees involved in the Reference are the employees of Party No. I(A) i.e. M/s. Agencia Ultramarina Services Pvt. Ltd. naturally, action taken under the challenge must be treated or observed as action taken by Party I (A). So I conclude that, the action under the challenge was taken by Party No. I(A) i.e. M/s. Agencia Ultramarina Services Pvt. Ltd. as it is stated in the reply filed by it at Exhibit 19 reply to the

Statement of Claim of Second Party, Union. Now question will be whether decision taken by the M/s. Agencia Ultramarina Services Pvt. Ltd. i.e. Party I(A) was its decision and whether it is legal or otherwise? It is to be noted that, Workmen involved in the Reference are the members of the Second Party Union were asked not to attend or work w.e.f. 3rd July, 1999. It is also a matter of record and is also observed by Hon'ble High Court in para 4 of its judgment of which I am reproducing concerned portion:

“Para 4: The company contends that due to global recession and for allied reasons spelt out in their letter dated 11-6-1999, it had terminated its contract with respondent No. 2 and consequently, the contractor had no option but to declare closure of his business operation on board the Vessel with effect from 3-7-1999. In turn, the services of the workmen engaged by respondent No. 2 on the Vessel were also terminated by payment of legal dues. However, the company having decided on place the transhipper in operation again, by its letter dated 27-10-1999, offered limited contract of crane operation jobs to respondent No.2, which in turn, by its letter dated 29-10-1999, called upon the crane operators whose services were terminated as a result of closure operations, to rejoin and confirm their willingness. This offer was followed by a telegram dated 12-11-1999. However, the workmen took a stand that unless all the 24 employees were reemployed after discussions with respondent No.1 Union, they would not be willing to join, but for one Supervisor and three Operators. Under these circumstances, respondent No. 2, therefore, had no option, but to recall the balance crane operators to fulfill the new contract with the Petitioner Company.”

17. This observation reveals that, by letter dated 11th June, 1999 Party 1 terminated contract with Party No. I(A) and consequently Party I(A) i.e. M/s. Agencia Ultramarina Services Pvt. Ltd. had no option but to declare closure of business operation of Board Transhipper T.V. Orissa with effect from 3rd July, 1999. In term services of the Workmen engaged by Party No. I(A) on Transhipper T.V. Orissa vessel were terminated by paying legal dues. That means, while terminating the services of the employees involved in the Reference Party No. I(A) had paid their legal dues. Even there is no dispute on that point of the Workmen involved in the Reference or of the Union who is representing the Workers. It is, to be noted that further step taken by Party No. I(A) i.e. M/s. Agencia Ultramarina Services Pvt. Ltd. that, when Transhipper T.V. Orissa was to reoperate, again it declared by letter dated 27-10-1999 and offered limited contract of Crane operators to join its services. Though that were offered to the workers, though it was limited one, it is to be noted that, Union took the stand that, unless all 24 employees were reemployed, they would not accept the offer to report on work. That time one Supervisor and three Operators who reported on duty as per offered were accepted on work by the Party No. I(A). As employees did not response to the call of the Party No.

I(A), no option remained with Party I(A) but to recall balance crane operators to fulfill the said posts by calling new crane operators. If retrenchment procedure is to be followed, and provisions under it, the offer appears was given by Party No. I (A) to reemploy their workers who were retrenched by it. However, when offer was given by Party I(A), Union took stand that, unless and until all are taken, they will not report on duties. That means, they themselves lost the opportunity to report on work and as such, provisions of retrenchment though were made available by Party No. I(A) to the Members of the Second Party, Union did no avail. So now they cannot blame and say that, the action taken by Party No. I(A) was not legal and proper as alleged in the Statement of Claims. It is pertinent to note that, though party No. I terminated the services on the Board for non-operation of Transhipper T.V. Orissa and as and when they decided to refunction it, offer was given to the members of the Second Party, Union, but they did not report lost that opportunity. When members of the Second Party, Union did not report as per the call given by the Party No. I(A) in my considered view, Party No. I(A), cannot be blamed for it saying that, they terminated the services of the Second Party, Union without following due process of law. Opportunity was given to them by giving invitation by letter dated 2nd October, 1999 and 29th October, 1999 as well as by telegram dated 12-11-1999. However, none of them report and workmen strict to their demand saying that unless and until all are reemployed, none of them will report. So it is a matter of record that, at the time of termination, their legal dues were paid. The discontinuing the operation of Transhipper T.V. Orissa is nothing but a sort of closure as said work cannot be continued in rainy season. When said work cannot be continued in rainy season and it is to operate in particular period, and when said work was closed it is nothing but a decision of closure and while deciding to close the work, legal dues were offered by Party No. I(A). There is no dispute on it. Besides it has offered reemployment when it decided and started to reoperate the functioning of Transhipper T.V. Orissa but members of the Second Party Union decided not to report as per the offer given by the Party No. I(A) and they lost their lien over the job as well as the lien over the right of reemployment with Party No. I(A). So I conclude that the action taken by Party No. I(A) is legal one.

18. In view of the discussion hereinabove I conclude that, action under the challenge of Party No. I(A) in retrenching Workmen i.e. members of Second Party, Union, is legal one and does not require any interference. Hence, the order.

ORDER

- (1) Reference is rejected.
- (2) No order as to costs.

At Mumbai

A. A. LAD, Presiding Officer

This 25th day of April, 2006.

नई दिल्ली, 23 मई, 2006

का. आ. 2278.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिनरलस एंड मिनरलस लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 5/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-06 को प्राप्त हुआ था।

[सं. एल-29011/48/99-आई.आर.(विविध)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 23rd May, 2006

S.O. 2278.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No.-1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Minerals Minerals Ltd., and their workmen, which was received by the Central Government on 22-5-06.

[No. L-29011/48/99-IR (Misc.)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT NO.1, DHANBADIn the matter of a reference under section 10(1) (D)
& (2A) of Industrial disputes Act, 1947

REFERENCE No. 5 OF 2000

PARTIES

Employers in relation to the management of
M/s. Minerals and Minerals Ltd.

And

Their Workmen

PRESENT : Shri Sarju Prasad, Presiding Officer

APPEARANCE:

For the Employers ; Shri G. Prasad, Adv.

For the Workman Mrs. Noorjahan, Adv.

State : Jharkhand Industry : Coal

AWARD

By Order. No. L-29011/48/99IR(M), dated, 14-12-1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the

Industrial disputes Act, 1947, referred the following disputes for adjudication to the Tribunal:

“Whether the refusal of the management of Minerals & Minerals Ltd., Lohardaga, in refusing to accept the charter of demands submitted by Chotanagpur Bauxite workers union justified? If not, to what relief the workman are entitled?.”

2. From the record it appears that no one is appearing from the side of workman from 26-5-2005. Therefore it is clear that sponsoring union/concerned workman are not interested to contest this case.

In the result I render a No dispute Award.

SARJU PRASAD, Presiding officer

नई दिल्ली, 23 मई, 2006

का. आ. 2279.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान कापर लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट (संदर्भ संख्या 19/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-06 को प्राप्त हुआ था।

[सं. एल-43011/6/2000-आई.आर.(विविध)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 23rd May, 2006

S.O. 2279.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 19/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Copper Ltd., and their workmen, which was received by the Central Government on 22-5-06.

[No. L-43011/6/2000-IR (Misc.)]

SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT, JAIPUR

Case No. CGIT-19/2001

Reference No. L-43011/6/2000/IR(M)

Sh. Subhash Ram Saini,

S/o Sh. Gokul Ram Saini, R/o Nanuwali Bawari, Dhani Banda, Khetri Nagar, Distt. Jhunjhunu (Raj.)

.....,Applicant

Versus

Hindustan Copper Ltd.,

The Executive Director, KCC, Khetri Nagar,

Distt. Jhunjhunu, Jhunjhunu (Raj.)

Non-applicant

PRESENT

Presiding Officer:	Sh. R.C. Shamla.
For the applicant:	Sh. R.C. Jain.
For the non-applicant:	Sh. Manoj Kumar & Sh. Rajiv Sharma.
Date of award:	31.3.2006

AWARD

1. The Central Government in exercise of the powers conferred under Clause 'D' of sub-Sections 1 & 2(A) to Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act') has referred this industrial dispute for adjudication to this Tribunal which runs as under:

"Whether the action of the management of Hindustan Copper' Ltd. Dist. Jhunjhunu in terminating the services of Subhash Ram S/o Sh. Gokul Ram Saini w.e.f. 30-8-92 was justified? If not, to what relief the workman is entitled to and from date"

2. The workman has pleaded in his claim statement that he was working as a casual worker w.e.f. 1-6-87 in the non-applicant company, that a pool was constituted of casual workers in the company and as per the requirement of the authorities of the company assigned the work to the casual workers. He was continuously working in the company, but he was declined to join the duty w.e.f. 30-8-92. Assailing the validity of his termination the workman has stated that prior to the termination neither the notice was issued to him nor the pay in lieu of the notice and the retrenchment compensation were paid to him under Section 25-F of the Act. He has further stated that at the time of terminating his service no seniority list under Section 25-G and Rule 77 of the ID Rules, 1957 was prepared and several junior casual workers to him were working, out of them the services of several workers have been regularized. He has also stated that subsequent to his termination the company has recruited the fresh hands to discharge the similar work and has acted in violation of Section 25-H of the Act and Rule 78 of the Rules, 1957. He has further stated that thousands of workers were working in the company on 30-8-92, but even then the sanction under Section 25-N of the Act was not obtained by the company prior to his termination. He has stated that the work performed by him was perennial in nature and has urged that he be reinstated in the service with its continuity and back-wages.

3. The non-applicant has disputed the claim of the workman in his written-counter and it transpires from the perusal of the written-counter that two working systems were prevalent in the company relating to the casual workers. Under one system a pool was constituted as per the settlement between the Union of the employees and the company which consisted of the casual workers performing their jobs on regular basis in the company and for carrying out the remaining works/additional work, under the another system, the daily wagers holding the

employment exchange registration cards were given the remaining jobs by the company. The non-applicant has further stated that the disputant has never continuously worked under the employment of the company, that he was totally engaged on contractual basis for specified period and the contract came to an end on the expiry of its period. As such, the workman's case is not covered under Section 2(oo) of the Act. He has also stated that the workman's engagement was a contract for service and not a contract of service. The non-applicant has then categorically denied any infringement on the part of the company of the provisions under Sections 25-F, 25-G and 25-H of the Act.

4. On the 'pleadings of both the parties, the following points for determination were framed:—

- I. आया केन्द्रीय सरकार के द्वारा प्रेषित निर्देश औद्योगिक विवाद अधिनियम, 1947 की धारा (क) के अन्तर्गत औद्योगिक विवाद की परिभाषा में आता है?
- II. आया प्रार्थी ने विपक्षी संस्थान में दिनांक 1-6-87 से 30-8-92 तक आकस्मिक श्रमिक के रूप में निरंतर कार्य किया?
- III. आया प्रार्थी के मामले में नियोजन की संविदा "कान्ट्रैक्ट फार सर्विस" था न कि "कान्ट्रैक्ट ऑफ सर्विस" यदि हां तो इसका प्रभाव?
- IV. आया प्रार्थी की सेवामुक्ति अप्रार्थी के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 25-एफ, जी, एन व औद्योगिक विवाद (केन्द्रीय) नियम, 1957 के नियम-77 का उल्लंघन कर की गई?
- V. प्रार्थी क्या सहायता प्राप्त करने का अधिकारी है?
- VI. क्या विपक्षी संस्थान द्वारा प्रार्थी की सेवामुक्ति के पश्चात् धारा 25-एच अधिनियम के उल्लंघन में नई नियुक्तियाँ की गई हैं?

In the evidence, the workman has submitted his affidavit and on behalf of the non-applicant, the counter-affidavit of MW-1, Jagdish Lal, Chief Manager (Personnel) has been brought on the record. Both these witnesses were cross-examined by the respective opposite representative. Both the parties have also led the documentary evidence on the record.

6. I have heard both the parties and have scanned the record. The point-wise discussion follows as under:

Point No. I

7. The workman has raised the industrial dispute with regard to his termination against the company. Section 2(K) defines that industrial dispute means as any dispute between employer and workman which is connected with the employment or non-employment of any person.

8. The 1d. representative for the company has contended that the workman had discharged his duties in accordance with the engagement orders and it was an oral contract for specific period, therefore, it does not fall within

the ambit of Section 2(K) of the Act. But this submission cannot be sustained in view of the definition under Section 2(K) of the Act. Since the workman has raised the industrial dispute with regard to the termination of his service on various counts, which is between the employer and him, the provision under Section 2(K) of the Act is attracted. This issue, therefore, is decided in favour of the workman and against the company.

Point No. II

9. The Ld. representative for the workman contends that the workman had continuously worked from 1-6-87 to 30-8-92 and in support of this fact the workman has filed his affidavit. The Ld. representative has contended that this Court vide its order dated 7-8-2002 on workman's request had summoned the documents, which have not been filed and the payment vouchers as desired have been partly submitted by the company. Therefore, the adverse inference should be drawn against the non-applicant.

10. Countering these submissions, the Ld. representative for the company submits that the workman had not continuously worked and that two systems relating to casual workers were prevalent in the company. Under the first system, those workmen were engaged who were empanelled in the pool and under the another system for discharging the remaining work, the casual workers having the registration cards issued by the employment exchange in their favour were given the said work. The Ld. representative has then contended that the engagement orders produced by the company shows the specific period for which they were employed and the payment of wages was made to them. On expiry of the said period, their engagement automatically came to an end. He has also contended that Ex. M-6 is the identity card issued by the company to the casual workers holding the registration cards and similar cards were issued to the workman also, who has not placed them on the record to show that he was continuously engaged by the company.

11. In the rejoinder, the Ld. representative for the workman has sought to controvert the submissions made on behalf of the company that there was no fixed term appointment, that all the engagement orders have not been filed, that it has not been mentioned in the engagement orders that on the expiry of the term the contract would automatically come to an end and that these engagement orders were not given to the workman. He has also contended that there was no written contract and has challenged the Ex. M-6, identity card that it is not concerned with the workman in question and no identity card relating to the workman has been placed by the company. He has also contended that the decisions referred to on behalf of the company are not relevant as they deal with the question of regularization of the services.

12. I have bestowed my thoughtful consideration to the rival contentions and have carefully gone through the judicial pronouncements referred to before me.

13. On behalf of the company as many as five engagement orders have been placed on the record, which though could not be marked as exhibits, these engagement orders speak of the term of appointment for which they were issued to the workman. The workman was confronted with these engagement orders in his cross-examination and he has admitted these documents. The next category of document is the payment sheets or vouchers which includes from Ex. M-1 to M-5. Ex. M-6 is a model identity card issued in favour of one casual worker named Banshidhar Saini. The Ld. representative for the workman has questioned that Ex. M-1 to M-5 have been wrongly marked on behalf of the company, which MW-1 did not purport to exhibit them. His submission is that purported documents as shown from Ex. M-1 to M-6 in the affidavit of MW-1 Jagdish Lal are the engagement orders. The Ld. representative has drawn my attention towards para 19 of the affidavit of Jagdish Lal, wherein he has stated that the persons who were sent by him to various branches for discharging the casual work, their particulars are mentioned in the Ex. M-1 to M-6.

14. If this version of the witness at para 19 of affidavit is accepted then the engagement orders cannot be linked to it, since they are five in total, whereas Ex. M-1 to M-6 on record seem to be referred by the management witness who has described them as Ex. M-1 to M-6 in his affidavit. Apart it, the workman was also confronted in his cross-examination with the payment sheets/vouchers Ex. M-1 to M-4 and he has admitted that they bear his Signatures between A to B respectively. These documents also contain the number of working days and the payment of wages made to the casual workers as mentioned therein. As such, this contention cannot be maintained that the payment sheets/vouchers have been wrongly marked on behalf of the company.

15. The workman in his claim statement has categorically stated that he had continuously worked in the period in question, but in his affidavit he has further improved his version by stating that in each calendar year he has completed more than 240 days of actual work. In support of this submission, the workman has failed to adduce any documentary evidence on the record.

16. In (2005) 8 SCC 750 Surendranagar Distt. Panchayat vs. Dahyabhai Amar Singh, referred to on behalf of the company, the Hon'ble Apex Court has held that as per Section 25 B of the Act the workman shall be said to be in continuous service for one year when he is in the employment of employer for the continuous uninterrupted period of one year except the period of absence permissible under the Section. The Hon'ble Court goes on to observe that "the provisions postulate that if the workman has put in at least 240 days with his employer, immediately prior to the date of retrenchment, he shall be deemed to have served with the employer for a period of one year to get the benefit of Section 25 F".

17. Now, I proceed to examine the evidence gathered on the record on this point. In his cross-examination the workman has admitted that a pool was constituted in the company and the remaining work, which could not be completed by the casual workers belonging to pool, was assigned to him. He has then admitted that he worked with other casual workers Durga Ram and others as mentioned in the engagement order dated 12-7-89. In continuation of the statement he has also admitted that he worked from 16-7-89 to 31-7-89 as a canteen boy, from 27-9-89 to 9-10-89, from 12-12-89 to 26-12-89 as a canteen boy as well as a gardener, from 27-9-89 to 9-10-89 as a Gardener, from 21-11-89 to 5.12.89, from 9.6.90 to 23.6.90 in the smelter, from 26-11-90 to 10-12-90, from 26-3-91 to 9.4.91 as a canteen boy, from 24-8-91 to 7.9.91 in the canteen, from 16-11-91 to 30.11.91 in the fertilizer site store, from 31.1.92 to 14.2.92 in the smelter and also from 15.6.92 to 2-7-92. He has also admitted that the payment sheets/bills of daily wagers Ex. M-1 to Ex. M-5 bear his signature between A to B respectively.

18. It is obvious from the aforesated admissions of the workman that during the period in question he had not continuously worked uninterruptedly for a period of one year and in the preceding calendar year from 30.8.91 to 29.8.92 prior to his termination he has not completed 240 days of actual service with his employer.

19. The workman has also admitted that identity cards similar to Ex. M-6 were issued to him, which used to be issued on employment of the workman and are lying with him. He has also admitted that these identity cards have not been produced by him in the Court and has failed to assign the reason thereof.

20. This fact has also surfaced from the workman's deposition that he had worked in the different branches of the company on different occasions and was not continuously working under the same branch. The facts which emerge from his testimony are (i) that admittedly he was assigned the job intermittently on the basis of need of work and (ii) that he was assigned different kinds of job which are not perennial in nature. The Id. representative for the company has placed his reliance upon 2005 LLR SC 235 wherein the Hon'ble Court has observed that when the workman was temporarily employed on the requirement of work in different departments of the Corporation, which he accepted, then a conclusion drawn by the Tribunal, that the number of days of work put in by the workman in broken period could not be taken as a continuous employment for the protection under Section 25-F of the Act, is justified. The submission advanced on behalf of the company that the workman was not in continuous employment of the company finds support from the referred to decision and is maintained.

21. Similarly, the Id. representative for the company has also contended that the workman was not employed

against any permanent vacant post but on exigencies of work he was entrusted the jobs of the different kinds. The Id. representative in support of his submissions has invited my attention towards 2005 LLR SC 1 wherein the Hon'ble Apex Court has observed that the respondent (workman) could not claim permanency since there was no permanent post. It lends support to the submission advanced on behalf of the company and on this count too, the workman's claim for his reinstatement in the service cannot be accepted.

22. The Id. representative for the workman has contended that the adverse inference should be drawn against the non-applicant since the documents in pursuance of the order dated 7.8.2002 have not been placed on the record by the company. As against it, the Id. representative for the company submits that for drawing the adverse inference it is necessary for the workman to prove the existence of that document. The Id. representative has placed his reliance on 2005 LLR SC 1 and (2005) 8 SCC 750.

23. In (2005) 8 SCC 750, a question had arisen before their Lordships for the non production of the seniority list of the daily wagers and the stand of the establishment was that no such seniority list was maintained by the department. The Hon'ble Apex Court has observed that in the absence of the regular employment of the workmen, establishment was not expected to maintain the seniority list of the employees engaged on daily wages and in the absence of any proof by the workman regarding existence of seniority list of the so-called seniority, no relief could be given to him for non-compliance with the provisions of the Act.

24. In the another decision 2005 LLR SC 1, the Hon'ble Court while considering the benefit of reinstatement granted solely on the basis of adverse inference drawn against the employer, has referred to the views expressed by the Hon'ble Court in its earlier judgment 2004 LLR 1022, which is usefully quoted as below:

"A court of law even in a case where provisions of the Indian Evidence Act apply, may presume or may not presume that if a party despite possession of the best evidence had not produced the same, it would have gone against his contentions. The matter, however, would be different where despite direction by a court the evidence is withheld. Presumption as to adverse inference for non-production of evidence is always optional and one of the factors which is required to be taken into consideration in the backgrounds of facts involved in the list. The presumption, thus, is not obligatory because notwithstanding the intentional non-production, other circumstances may exist upon which such intentional non-production may be found to be justifiable on some reasonable grounds."

25. In the light of the principles propounded by the Hon'ble Apex Court in the decision supra, I am called upon to determine whether the adverse inference can be drawn against the company in the instant controversy.

26. Vide order dated 7-8-2002, the non-applicant was called upon to produce the vouchers for the period from 1-6-87 to 30-8-92, the seniority list dated 30-8-92 containing the names of employees in the category of the post of the workman and the list of appointment of the workmen after 30-8-92 on the equivalent post. The non-applicant had opposed the workman's application dated 27-12-2001 by stating that these documents are not relevant and the relevant document has already been produced before the Tribunal. In the order dated 1-11-2002, it has been noted that in pursuance of the order dated 7-8-2002 a few documents have been placed on the record by the non-applicant, but the seniority list dated 30-8-92 and the list of appointment of the fresh hands were not placed on the record and the adverse inference may be drawn against these documents, which appears to be subjected to further evidence since no conclusive inference could be drawn at that stage prior to the submission of the evidence. It is further revealed that on the same analogy the application dated 6-1-2003 submitted on behalf of the company seeking the permission to place the remaining vouchers was allowed after hearing both the parties and observing that it does not amount to the reviewing of the previous order of Tribunal. Therefore, under these changed circumstances the question has to be adjudicated.

27. So far as the seniority list and appointment list dated 30-8-92 is concerned, the workman could not bring any iota of evidence on the record that both these types of lists ever existed with the company and as such following the principles propounded by the Hon'ble Apex Court in the decision supra on account of their non-production of these two documents, no adverse inference could be drawn. The payment vouchers Ex. M-1 to M-5 have been adduced by the non-applicant and MW-1 Jagdish Lal has deposed in his cross-examination that all the engagement order relating to the workman till 30-8-92 have not been produced on the record, but all the vouchers have been submitted. Similarly, he has also stated in his cross-examination that the attendance register of the workmen is kept separately by the concerned department, which have not been placed on the record, but their attendance have been submitted before the Court. Firstly, it is evident that the vouchers of the relevant period which were called for from the company have been produced on the record. Secondly, though the attendance registers and engagement orders were not summoned from the company, yet the management witness has satisfactorily explained that the attendance of the workman has been shown before the Court and has further stated that though all the engagement orders could not be placed on the record, yet the relevant vouchers have been produced before the Court. These vouchers also contain

the number of working days, which are sufficient to explain the period of employment of the workman. On these facts, no adverse inference can be drawn against the company and the submission canvassed on behalf of it finds support from the decisions supra.

28. It is also noteworthy here that on the one hand the workman has asserted that the relevant documents have not been placed by the company before the Court, but on the other hand the workman has admitted in his cross-examination that all the gate passes issued to him are lying with him, which he has not produced before the Court. On a perusal of the model gate pass Ex. M-6 it is revealed that it also contains the period of employment of the concerned workman. By producing all the gate passes, the workman could clearly show his period of employment with the company. It is fairly settled law that the initial burden of proving the fact of continuous service or completion of 240 days of work in a calendar year preceding to the termination rests with the workman and the gate passes issued by the company to the workman could be the best evidence to discharge the onus of this issue, which the workman has not produced before the Court and no reasonable explanation could be offered on his behalf for their non-production before the Court.

29. To conclude, the workman has failed to discharge the onus of point No. II, which is decided against him.

Point No. III

30. It has been contended on behalf of the company that the employment of the workman was a contract for service and it was not a contract of service. It has been opposed on behalf of the workman by contending that the workman was regularly working with the company. MW-1 Jagdish Lal has specifically stated in his affidavit that the additional work or the remaining work which could not be completed by the casual workers belonging to pool, used to be entrusted to the registration card holder casual workers. This fact is further fortified by the documentary evidence, e.g., the engagement orders of the workman. It is even admitted by the workman in his cross-examination that he has correctly stated in his claim statement that according to the requirement of the work, the job was used to assign to the casual workers. More so, in his claim statement the workman at the opening para of his claim statement has stated that he was working as a casual worker w.e.f. 1-6-87 with the company and according to the need of the work, the non-applicant establishment used to assign the work to the casual workers. Therefore, the plea set forth on behalf of the company that it was a contract for service and not a contract of service is even corroborated by the pleadings and admission of the workman. As such, this point is decided in favour of the company and against the workman.

Point No. IV

31. The ld. representative for the workman contends that subsequent to the workman's termination, the new appointments of casual worker have been made. He has further stated that Ex. W-1 is the seniority list of the workmen and Ex. W-2 is their present status which shows the new appointments. It has been opposed by the non applicant.

32. The workman neither in his claim statement nor in his affidavit has deposed the names of such daily wagers who were employed subsequent to his termination. On a perusal of the list Ex. W-2 it is revealed that the name of the workman figures at serial No. 18 and subsequent to him there are three persons who have been directly recruited. Firstly, these persons who have been recruited, they belong to the different categories than that of the workman and it is obvious that they were regularly selected after following the prescribed procedure of recruitment and due publication. The workman in his affidavit has nowhere pleaded that subsequent to his termination while the new hands were recruited, he was not offered an opportunity of employment. In 2005 LLR AP 4, relied upon by the ld. representative for the company, the Hon 'ble Court has observed that the workman was required to plead that he was not offered the employment by the establishment prior to recruiting the fresh hands. As such, the plea put forth by the workman is vague and from the evidence gathered on the record it cannot be inferred that the non-applicant has employed the fresh hands in the same category subsequent to workman's termination in violation of Section 25-H of the Act. This point, therefore, is decided against the workman.

Point No. V

33. The issue relating to Section 25-F of the Act has already been discussed under point No. II. Now, I advert to the questions pertaining to the provisions under Section 25-G and 25-N of the Act respectively.

34. So far as the retention of the junior employees to the workman is concerned, the ld. representative for the workman submits that the services of Rameshwar Lal Saini and Brij Kishor Sharma, who were juniors to the workman were regularized after the workman's termination. His contention is that Ex. W-1 discloses the names of junior workmen whose services were subsequently regularized.

35. Ex. W-1 and W-2, the seniority lists of the workmen were placed on the record by the workman during the submission of the management evidence. It is further shown that Ex. W-2 is the present status of the workmen shown in Ex. W-1. In Ex. W-1 the name of Subhash Chand ranks at serial no. 18 and subsequent to him are the names of Sultan Ram, Kailash Chand, Manish Kumar and Dharam Pal. In Ex. W-2 Sultan Ram, Kailash Chand, Manish Kumar and Dharam Pal are placed below the name of Subhash Chand. Sultan Ram is shown as a casual worker of the

central pool and other persons are shown as the direct recruits. The contention advanced on behalf of the workman appears to be that since these four persons have been shown next to the workman in the seniority list Ex. W-1, they were juniors to him whose services have been regularized while terminating the workman's service. But this submission is not strengthened by the seniority list Ex. W-2 which clearly demonstrates that Sultan Ram was a central pool worker whereas the other persons are the direct recruits, who have been appointed through a different mode of appointment and also belong to different categories. On behalf of the company, since the beginning, it has been pleaded that there were different categories of the casual workers and if the service of central pool casual worker is regularized, who was working on regular basis, then it cannot render a ground for accepting the claim of the workman being their status entirely different.

36. Coming to the oral evidence, MW-1 Jagdish Lal in his cross-examination has stated that subsequent to 30-8-92, 64 registration card holder casual workers were working and their list was not prepared by the department. He has further stated that he cannot point out their dates of employment since they were engaged on different dates. His version is natural as a person cannot be expected to point out orally the dates of appointment of 64 persons. However, no suggestion could be put on behalf of the workman to the witness indicating the particular casual worker out of these 64 persons who being a junior to workman was retained in service. He has also stated that Brajesh Kumar and Rameshwar Lal were working for the last 18/19 years, but they were not the casual workers, who were working for the sports council on stipend basis. He has emphatically stated that they were not appointed on 31-8-95. He has further stated that in the list Ex. W-1 there are some registration card holder casual workers, who were junior to the workman, but their services continued since they were performing the job of sweeping. No specific question could be put to this witness as to which casual worker having the registration card was junior to the workman whose service was retained or regularized by the company subsequent to the termination of the workman. Neither in the claim statement nor in the affidavit the workman has disclosed the names of such junior persons to him whose services were retained by the company in violation of the provision under Section 25-G of the Act. It is pertinent to note here that the workman has nowhere pointed out in his pleadings the names of such junior persons whose services were retained or regularized while terminating his services, except incorporating a general plea that juniors to him were retained or their services were regularized. The initial burden lies upon him to prove this fact by adducing the definite and positive evidence. Merely by putting the vague and ambiguous questions to the management witness in his cross examination in order to extract a favourable answer, only appears to be an attempt

made by him for groping the redress. The management witness could satisfactorily explain the factual position in this regard and the workman has failed to establish that junior persons to him were retained by the company while terminating his service.

37. Now, the question remains with regard to non-compliance of the provision under Section 25-n of the Act. Under the foregoing points, it has been decided that the workman was not in the employment of company for a continuous period of one year. Accordingly, this provision is not attracted.

38. To sum up, the workman has failed to discharge the burden of proving these issues, which are accordingly decided against him.

RELIEF

39. For the foregoing reasons, the workman is entitled to no relief.

40. In the result, the reference is answered in the negative against the workman and it is held that the termination order dated 30.8.1992 passed against the workman is justified. His claim is rejected. An award is passed in these terms accordingly.

41. Let a copy of the award be sent to the Central Government for publication under Section 17(1) of the Act.

R.C. SHARMA, Presiding Officer

नई दिल्ली, 25 मई, 2006

का. आ. 2280.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जेसोद मार्नीज के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1178/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-06 को प्राप्त हुआ था।

[सं. एल-37012/1/2001-आईआर (विविध)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 25th May, 2006

S.O. 2280.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 1178/04) of the Central Government Industrial Tribunal-cum-Labour Court Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s Jesod Marines Ltd., and their workmen, which was received by the Central Government on 24-5-06.

[No. L-37012/1/2001-JR (Misc.)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT:

SHRI B.L.KAZI (B.Sc, L.L.M), Presiding Officer

Industrial I Dispute (Reference C.G.I.T.A.)

No. 1178/04.

OLD (I.T.C) No. 17/2001

M/s. Jesod Marines

The Manager, Sector No. 10-A, Plot No. 92 Vidya nagar
Gandhidham (Kutch) Gandhidham-370201

First party...

V/s.

The Org. Secretary, The Association of Railway and Post Employees 15, Sahshi Apartment, Nr. Anjalee Cinema Vasna Road, Ahmedabad. —Second Party...

APPEARANCE

First Party: (Absent)

Second Party: (Absent)

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by Order No.L-37012/1/2001/IR(M) dated 21-5-2001 to this Tribunal for adjudication the terms of reference is as under:

SCHEDULE

“Whether the action of the management of M/s. Jesod Marines Gandhidham in terminating/discontinuing the services of six workmen in list enclosed by way of closing down the establishment w.e.f 19-01-2000 the workmen were working with them since last 12 to 20 years is just, valid and legal. If not, to what benefits the workmen are entitled for and what directions are necessary in the matter”?

2. The second party wa. issued a notice to file the statement of claim by this Tribunal on 23-07-2001. The date to file the statement of claim was 25-09-2001. The appropriate Government has also directed the second party who has raised the dispute to file a statement of claim with relevant document and list of reliance and witness to the Tribunal within 15 days of the receipt of the order.

3. However, the proper opportunity was given by this Tribunal to file a statement of claim to the second party. The second party failed to submit a statement of claim after 4 years and 3 months from the date of reference.

Thus this Tribunal has reason to believe that the second party is not interested in the dispute. Thus the concerned workmen failed to prove this case. Looking to the above observations I hereby pass the following order:

ORDER

The action of the management of M/s. Jesod Marines Gandhidham in terminating/discontinuing the services of six workmen in list enclosed by way of closing down the establishment w.e.f 19-01-2000 is just, valid and legal. The concerned workmen are not entitled to get any relief. The reference is hereby rejected for want of prosecution. No order as to cost.

Date: 13-09-05

Ahmedabad.

B. I. KAZI, Presiding Officer

नई दिल्ली, 25 मई, 2006

का. आ. 2281.—आौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.ओ.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आौद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 1213/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-06 को प्राप्त हुआ था।

[सं. एल-30011/50/2002-आई.आर. (विविध)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 25th May, 2006

S.O. 2281.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 1213/04) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of I.O.C.L. and their workmen, which was received by the Central Government on 24-5-2006.

[No. L-30011/50/2002-IR (Misc.)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD
PRESENT

SHRI B. I. KAZI (B.Sc., L.L.M) Presiding Officer
Industrial Dispute (Reference C.G.I. T.A.) No. 1213/04.

OLD IT.C No. 4/2003

The Executive Director, Indian Oil Corporation Ltd. Indian Oil Bhawan, G-9 Ali Yavar Jung Marg, Bandra (East) Mumbai—First Party

V/s.

Shri Ramesh Valji Chudsama, C/o. Majoar Sangh, Opp. Engineer Office, K. V. Road, Jamnagar.—Second Party

APPEARANCE

First Party: Shri S. B. Gogia

Second Party: (Absent)

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by order No. L-30011/50/2002-IR (M) dated 29-11-2002 to this Tribunal for adjudication the terms of reference is as under :

SCHEDULE

“Whether the action of the Chief Aviation Manager, Indian Oil Corporation Ltd., Marketing Division Western Region Mumbai in giving punishment of Dismissal from service of Shri R. V. Chudsama, Sr. TT Driver w.e.f. 20-11-1998 is legal, justified and proportionate to the fault? If not, then to what relief the concerned workman is entitled to and from which date?”

2. The second party was issued a notice to file the statement of claim by this Tribunal on 20-01-03. The date to file the statement of claim was 21-05-2003. The appropriate Government has also directed the second party who has raised the dispute to file a statement of claim with relevant document and list of reliance and witness to the Tribunal within 15 days of the receipt of the order.

3. However, the proper opportunity was given by this Tribunal to file a statement of claim to the second party. The second party failed to submit a statement of claim after 2 years from the date of reference. Thus this Tribunal has reason to believe that the second party is not interested in the dispute. Thus the concerned workman failed to prove this case.

Looking to the above observations I hereby pass the following order:

ORDER

The action of the Chief Aviation Manager, Indian Oil Corporation Ltd., Marketing Division, Western Region Mumbai in giving punishment of Dismissal from service to Shri R. V. Chudsama, Sr. TT Driver w.e.f. 20-11-1998 is legal, just and proportionate to the fault. The concerned workman is not entitled to get any relief. The reference is hereby rejected for want of prosecution. No order as to cost.

Date: 12-09-05

Ahmedabad.

B. K. KAZI, Presiding Officer

नई दिल्ली, 31 मई, 2006

का. आ. 2282.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स जे. बी. बोडा एण्ड कं. प्रा. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 12/05) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-5-2006 को प्राप्त हुआ था।

[सं. एल-37012/4/2000-आई.आर.(एम)]

सौ. गंगाधरण, अवर सचिव

New Delhi, the 31st May, 2006

S.O. 2282.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/05) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad (Gujarat) as shown in the Annexure in the Industrial Dispute between the management of M/s. J. B. Boda & Co. Pvt. Ltd. and their workmen, received by the Central Government on 16-5-2006.

[No. L-37012/4/2000-IR (M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT AHMEDABAD

PRESENT:

Shri B. I. Kazi (B.Sc., L.L.M.), Presiding Officer
Industrial Dispute (Reference C.G.I.T.A.) No. 12/05

The Manager,
M/s. J. B. Boda and Co. Pvt. Ltd.
Maker Bhavan No. 1,
Sir Vithal Das Thacker Marg,
Gandhidham.

The Regional Director,
M/s. J. B. Boda and Co. Pvt. Ltd.,
Bunglow No. 16 Sector 4First Party

V/s.

The General Secretary,
Transport and Dock Worker's Union,
Room No. 21, Yogesh Building Ward 12-C,
Plot No. 58, GandhidhamSecond Party

APPEARANCE

First Party : (Absent)
Second Party : Shri Kalpak Trivedi

AWARD

1. The Government of India has referred the Industrial Dispute between the above parties by order No. L-37012/4/2000-IR (M) dated 7-9-2000 to this Tribunal for adjudication the terms of reference is as under :

SCHEDULE

“Whether the action of the Management Director/ Regional Director of M/s. J. B. Boda & Co. Pvt. Ltd., Gandhidham in removing/terminating/discontinuing the services of Shri Dilip D. Johny, Asst. Superintendent w.e.f. 2-3-2000 to obtain signature on resignation letter forcefully is legal and justified ? If not, to what relief the workman is entitled and what directions are necessary in the matter ?”

2. The second party was issued a notice to file a statement of claim by this Tribunal on 23-3-2005. The second party has submitted an authority to represent the second party. By Ex. 13. The second party submitted an application to withdraw the reference and it was stated that applicant is satisfied and he does not want to adjudicate the matter and prayed to allow the second party to withdraw the matter.

3. Looking to the facts of Ex. 13, the Tribunal has allowed to withdraw the reference. Hence I hereby pass the following the order :

ORDER

Application Ex. 13 is hereby allowed. The second party is allowed to withdraw the reference. The reference is hereby disposed off. No order as to cost.

Date : 13-9-05

B.I. KAZI, Presiding Officer
Ahmedabad

नई दिल्ली, 31 मई, 2006

का. आ. 2283.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कांडला पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 953/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-5-2006 को प्राप्त हुआ था।

[सं. एल-37011/5/92-आई आर (एम)]

सौ. गंगाधरण, अवर सचिव

New Delhi, the 31st May, 2006

S.O. 2283.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 953/04) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kandla Port Trust and their workmen, which was received by the Central Government on 16-5-2006.

[No. L-37011/5/92-IR (M)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
 AT AHMEDABAD

PRESENT

Shri B. I. KAZI (B.Sc., L.L.M.), Presiding Officer
 Industrial Dispute (Reference C.G.I.T.A.) No. 953/04
 OLD (L.T.C) NO. 21/1993

The Chairman,
 Kandla Port Trust,
 A.O. Building,
 Gandhidham-370201

First Party

V/s.

The General Secretary,
 Transport and Dock Worker's Union,
 26, Mewawala Market,
 Kandla Port (Kutch)-Pin 370201

Second Party

APPEARANCE

First Party : Shri S. B. Gogia
 Second Party : (Presue)

AWARD

Reference (C.G.I.T.A.) NO. 953/04

1. The Government of India has referred the Industrial Dispute between the above parties by order No. L-37011/5/92-IR (Misc.) IR (B-I) dated 15-12-1993 to this Tribunal for adjudication the terms of reference is as under :

SCHEDULE

“Whether the demand of the Transport and Dock Worker's Union (HMS) Kandla against the penalty imposed by the management of K.P.T. Kandla on Shri Fakir Mohamed A. Electrician and for its withdrawal and for expunging the adverse remarks in the confidential report for year 1991, justified and legal? If so, what further directions are necessary in the matter?”

2. The second party was issued a notice to file a statement of claim by this Tribunal on 1-2-1994. The second party has filed the statement of claim by Ex. 5. The first party has filed the statement of claim by Ex. 6. The second party has submitted an authority to represent the second party. By Ex. 5. The second party submitted an application to withdraw the reference and it was stated that applicant is satisfied and he does not want to adjudicate the matter and prayed to allow the second party to withdraw the matter.

3. Looking to the facts of Ex. 8, the Tribunal has allowed to withdraw the reference. Hence I hereby pass the following the order :

ORDER

Application Ex. 5 is hereby allowed. The second party is allowed to withdraw the reference. The reference is hereby disposed off. No order as to cost.

B. I. KAZI, Presiding Officer

Date : 13-9-05

Ahmedabad

नई दिल्ली, 29 मई, 2006

का. आ. 2284.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का. आ. 4738 दिनांक 6-12-2005 द्वारा लोह अयस्क खनन उद्योग जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 16 में शामिल हैं, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 18-12-2005 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 18-6-2006 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं एस-11017/13/97-आई आर (पी.एल.)]

जे. पी. पति, संयुक्त सचिव

New Delhi, the 29th May, 2006

S.O. 2284.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of labour S.O. No. 4738 dated 6-12-2005 the service in the Iron Ore Mining Industry which is covered by item 16 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 18th December, 2005.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a period of six months from the 18th June, 2006.

[F.No. S-11017/13/97-IR (PL)]

J. P. PATI, Jt. Secy.

नई दिल्ली, 31 मई, 2006

का. आ. 2285.—राष्ट्रपति, श्री बी. आई. काजी जिन्हें इस मंत्रालय की दिनांक 22-4-2004 की समसंख्यक अधिसूचना के द्वारा 12-4-2004 (पूर्वाह) से केन्द्रीय सरकार औद्योगिक न्याधिक सह-श्रम न्यायालय, अहमदाबाद में पीठासीन अधिकारी के पद पर प्रतिनियुक्त आधार पर नियुक्त किया गया था, की सेवाएं गुजरात राज्य न्यायपालिका से 30-6-2006 (अपाराह) से अर्थात् श्री बी. आई. काजी के अधिकारिता दिनांक से वापिस लेते हैं।

[सं. ए-11016/5/2003-सी.एल.एस. II]

पी. के. ताम्रकार, अवर सचिव

New Delhi, the 31st May, 2006

S.O. 2285.—The President is pleased to return the services of Shri B. I. Kazi, who has been appointed to the post of Presiding Officer of the CGIT-cum-Labour Court, Ahmedabad w.e.f. 12-4-2004 on deputation basis vide this Ministry's Notification of even number dt. 22-4-2004 to the Judiciary of the State of Gujarat w.e.f. 30-6-2006 (A.N.) i.e. on superannuation of Sh. B.I. Kazi.

[No. A-11016/5/2003-CLS-II]

P. K. TAMRAKAR, Under Secy.

नई दिल्ली, 2 जून, 2006

का. आ. 2286—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जुलाई, 2006 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध मध्य प्रदेश के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“तहसील एवं जिला रत्नालाम के ग्राम सेजावता बिबड़ोद एवं खाराखेड़ी के अन्तर्गत शामिल सम्पूर्ण क्षेत्र।”

[सं. एस-38013/42/2006-एस. एस. I]

के. सी. जैन, निदेशक

New Delhi, the 2nd June, 2006

S.O. 2286.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st July, 2006 as the date on which the provisions of Chapter -IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Madhya Pradesh namely :—

“The area comprised within the limits of village Sejawata, Bibrod and Kharakhedi in Tehsil and District of Ratlam.”

[No. S-38013/42/2006-S. S. I]

K. C. JAIN, Director

नई दिल्ली, 2 जून, 2006

का. आ. 2287.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 जुलाई, 2006 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध राजस्थान के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“जिला जयपुर, तहसील बस्सी के राजस्व ग्रामों रामसिंहपुरा, हिंगोनिया, जीतावाला, दूदावाला, रामसर पालावाला, मानसर खेड़ी, बाढ़ स्वामी, हरध्यानपुरा, हरचन्दपुरा उर्फ बाल्यावाला, रामरतनपुरा, द्योड़ा चोड़ा, गीला की नांगल, हरड़ी, घाटा, भठेसरी के अन्तर्गत आने वाले क्षेत्र।”

“जिला जयपुर, तहसील सांगानेर के राजस्व ग्रामों हीरापुरा, चक मातासूला, खोरी, गोविन्दपुरा उर्फ रोपाडा, खोह नागोरियान, लूनियावास, पालड़ी मीणा के अन्तर्गत आने वाले क्षेत्र।”

“जिला जयपुर, तहसील जयपुर के राजस्व ग्रामों गलता, जामड़ोली, किलनगढ़, मानपुर संडवा के अन्तर्गत आने वाले क्षेत्र।”

[सं. एस-38013/41/2006-एस. एस. I]

के. सी. जैन, निदेशक

New Delhi, the 2nd June, 2006

S.O. 2287.—In exercise of the powers conferred by Sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st July, 2006 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Rajasthan namely :—

“The area comprising the revenue villages of Ramsinghpura, Hingoniya, Jeetawala, Dudawala, Ramsar Palawala, Mansar Khedi, Badh Swami, Hardhyapura, Harchandpura alias Balyawala, Ramratampura, Dyoda Chor, Geela Ki Nangal, Hardi, Ghata, Bhathiesari in Tehsil Bassi, District Jaipur.”

“The areas comprising the revenue villages of Heerapura, Chek Matasula, Khor, Govindpura alias Ropada, Kho Nagoriyan, Luniyawas, Paladi Meena in Tehsil Sanganer, District Jaipur.”

“The areas comprising the revenue villages of Galata, Jamdoli, Kilangarh, Manpur Sadawa in Tehsil Jaipur, District Jaipur.”

[No. S-38013/41/2006-S. S. I]

K. C. JAIN, Director

नई दिल्ली, 5 जून, 2006

का. आ. 2288.—जबकि मैसर्स किलोस्कर टोयोडा टेक्सटाली मशीनरी लि. (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952

का 19) (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) की धारा 17 की उपधारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

और जबकि केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

अतः, अब उक्त अधिनियम की धारा 17 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, केन्द्र सरकार एतद्वारा उक्त प्रतिष्ठान को 22-9-1997 से अगली अधिसूचना तक के लिए उक्त योजना के समस्त उपबंधों के प्रचालन से छूट प्रदान करती है।

[सं. एस-35015/17/2003-एस. एस.-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 5th June, 2006

S.O. 2288.—Whereas M/s. Kirloskar Toyoda Textile Machine Ltd. (hereinafter referred to as the said establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the said Act).

And whereas in the opinion of the Central Government the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Fund Scheme, 1952 (hereinafter referred to as the said scheme) in relation to the employees in any other establishment of similar character.

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 22-9-1997, until further notification.

[No. S-35015/17/2003-SS-II]
S. D. XAVIER, Under Secy.

नई दिल्ली, 5 जून, 2006

का. आ. 2289.—जबकि मैसर्स कैडिला फार्मास्टिकल्स लि. (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य

निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 की 19) (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) की धारा 17 की उपधारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन दिया है।

और जबकि केन्द्र सरकार के विचार में अंशदान दर के मामले में उक्त प्रतिष्ठान के भविष्य निधि के नियम उसके कर्मचारियों के लिए उक्त अधिनियम की धारा 6 में विनिर्दिष्ट की तुलना में कम हितकर नहीं है और कर्मचारी भी समान प्रकृति के किसी अन्य प्रतिष्ठान के कर्मचारियों के संबंध में उक्त अधिनियम या कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरान्त उक्त प्रतिष्ठान के रूप में संदर्भित) के अंतर्गत अन्य भविष्य निधि लाभ भी प्राप्त कर रहे हैं।

अतः, अब उक्त अधिनियम की धारा 17 की उपधारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस संबंध में समय-समय पर विनिर्दिष्ट शर्तों को ध्यान में रखते हुए, केन्द्र सरकार एतद्वारा उक्त प्रतिष्ठान को 1-4-2004 से अगली अधिसूचना तक के लिए उक्त योजना के समस्त उपबंधों के प्रचालन से छूट प्रदान करती है।

[सं. एस-35015/01/2005-एस. एस.-II]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 5th June, 2006

S.O. 2289.—Whereas M/s. Cadila Pharmaceuticals Ltd. (herein after referred to as the said establishment) has applied for exemption under clause (a) of Sub-section (1) of Section 17 of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (herein after referred to as the said Act).

And whereas in the opinion of the Central Government the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Fund Scheme, 1952 (hereinafter referred to as the said scheme) in relation to the employees in any other establishment of similar character.

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in this regard from time to time, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-4-2004, until further notification.

[No. S-35015/01/2005-SS-II]
S. D. XAVIER, Under Secy.